



An  
Bord  
Pleanála

## Inspector's Report

### ABP-319421-24

#### Development

Demolition of all existing buildings on site for the development of 181 dwellings in 4 apartment blocks 3-7 storeys in height. The development also includes a retail unit, creche and 2 community/arts & culture and all associated site works.

#### Location

Harold's Bridge Court, No's 1-3 Clare Villas, No. 18 Greenmount Lane, and No. 11 Limekiln Lane, located at Harold's Cross Road, Greenmount Lane & Limekiln Lane, Harold's Cross, Dublin 6W

#### Planning Authority

Dublin City Council.

#### Planning Authority Reg. Ref.

LRD6036/24-S3

#### Applicant(s)

The Adroit Company Limited

#### Type of Application

Large - Scale Residential  
Development (LRD)

#### Planning Authority Decision

Refused

<b>Type of Appeal</b>	First Pary V Refusal
<b>Appellant(s)</b>	The Adroit Company Limited
<b>Observer(s)</b>	<ol style="list-style-type: none"> <li>1. Jason Jalet</li> <li>2. Jackie &amp; Peter Martin</li> <li>3. Brendan &amp; Catherine McGarry</li> <li>4. The Residents of Parnell Road</li> <li>5. Rosemary O'Halpin</li> <li>6. Cormac O'Malley &amp; Typhaine Boullet</li> <li>7. Harolds Cross Village Community Council</li> <li>8. Mark Adams &amp; Emer Hartnett</li> <li>9. Amanda Philip</li> <li>10. Roy Pearson &amp; Joan Whelan</li> <li>11. Fiona McGuinness &amp; Clare Miller</li> </ol>
<b>Date of Site Inspection</b>	1 <sup>st</sup> May 2024
<b>Inspector</b>	Irené McCormack

## **1.0 Site Location and Description**

- 1.1.1. The subject site is located in the Harold's Cross area of south Dublin and is bounded by Parnell Road to the north and Harold's Cross Road to the east. The subject site is located approximately 2.5km south of the city centre.
- 1.1.2. The appeal site is lies to the south of Parnell Road, on the south side of the Grand Canal, (R111) and southwest of Robert Emmet Bridge over the Canal and east side of Harold's Cross Road, (R137). The site is flanked by / located between Greenmount Lane, to the west, and Harold's Cross Road, to the east with a stated site area of approximately 1.06 hectares.
- 1.1.3. The site is bounded to the north by the rear of existing residential and commercial development along Parnell Road, and by commercial and residential development to the south, and Limekiln Lane. The site lies to the north-east of the Key Urban Village (KUV) of Rathmines (approximately 1km distance) and a short distance from Dublin's south inner city (approximately 1.5km distance). The Grand Canal is located to the north of the site.
- 1.1.4. The site is occupied by an existing duplex housing development known as Harold Bridge Court, which is comprised of No's 1 to 50 Harold's Bridge Court (i.e. 4 no. 3 storey duplex residential buildings (i.e. 48 no. dwellings) and 2 no. 1 storey residential buildings (i.e. No's 49 & 50), with associated surface car parking and areas of amenity open space, which was constructed in the 1990s, and which is accessed from Harold's Cross Road via an entrance shared with the Greenmount Office Park.
- 1.1.5. Also within the application site, to the west of Harold's Bridge Court, east of the warehouse on Greenmount Lane and south of No's 1- 4 Parnell Road, is a terrace of three early Georgian Houses (known as No's 1 - 3 Clare Villas) which are currently accessed (i.e. vehicular and pedestrian access) via a private lane (over which there is a right of way) from Parnell Road. The western part of the site is occupied by an existing warehouse which fronts directly onto Greenmount Lane, from which it is accessed. The existing warehouse fronting onto Greenmount Lane measures along with ancillary structures measuring with access from Greenmount Lane. The application site also includes two no. single storey cottages to the south of the existing warehouse, i.e. No. 18 Greenmount Lane and No. 11 Limekiln Lane.
- 1.1.6. The general area is characterised by a mix of residential and commercial uses.

## 2.0 Proposed Development

- 2.1.1. The proposed **development provides for 181 no. dwellings comprised of studio, 1, 2 & 3 bed apartment units in 4 no. 3-7 storey blocks** (accommodated in proposed Blocks A-D). The development also **includes: (a) 1 no. retail (shop local) unit** (c.174sq.m) at ground floor level of Block A, **(b) 1 no. creche (c.140sq.m)** at ground floor level of Block C, and **(c) c.519sq.m of community/arts & culture space** at ground and first floor of Block D (facing onto Greenmount Lane) and c. 147sq.m of community/arts & culture space in No. 18 Greenmount Lane & No. 11 Limekiln Lane, all on a site area of c. 1.06Ha.
- 2.1.2. Permission is sought for **the demolition of all existing buildings on site** (c. 5,356m<sup>2</sup>), i.e. (a) 4 no. 3 storey duplex residential buildings (i.e. 48 no. dwellings, c. 3,542m<sup>2</sup>) and 2 no. 1 storey detached dwellings i.e. No's 49 & 50 (c. 40m<sup>2</sup> & 41m<sup>2</sup> respectively) all within Harold's Bridge Court, (b) 3 no. 2 storey houses at No's 1-3 Clare Villas (c. 331m<sup>2</sup> in total) and (c) an existing warehouse (c.1,248m<sup>2</sup>) and ancillary structures (c.154m<sup>2</sup>) fronting onto Greenmount Lane.
- 2.1.3. **Permission is sought for a change of use from existing residential to proposed community/arts & culture space** at No. 18 Greenmount Lane & No. 11 Limekiln Lane. Vehicular access to the proposed development will be via Harold's Cross Road, utilizing the existing entrance to Harold's Bridge Court. Limited vehicular traffic will be allowed enter the site from Greenmount Lane, with no vehicular traffic progressing through the entire development. Pedestrian and cyclist access is proposed via Greenmount Lane, Limekiln Lane and Harold's Cross Road.
- 2.1.4. The proposed development consists of the following:
- **Block A** is a four to six storey building accommodating 51 no. dwellings, comprised of 1 no. studio apartment, 32 no. 1 bed apartments & 18 no. 2 bed apartments. Block A also includes 1 no. retail (shop local) unit (c.174sq.m) at ground floor level, with a communal amenity room (c.21sq.m) on the 5th floor. Communal open space / roof gardens are provided at 4th floor level (c.145sq.m) and 2 no. communal roof gardens (c.50sq.m & c.89sq.m respectively) on the 5th floor. Bin and bicycle stores, sub-station & switch room are accommodated at ground floor.
  - **Block B** is a three to seven storey building accommodating 51 no. dwellings,

comprised of 2 no. studio apartments, 18 no. 1 bed apartments, 30 no. 2 bed apartments & 1 no. 3 bed apartment. Block B also includes a reception / concierge room (c.18sq.m) at ground floor, with communal roof gardens on the 3rd floor (c.153sq.m) and on the 6th floor (c.86sq.m). A bicycle store is accommodated at ground floor.

- **Block C** is a three to seven storey building accommodating 50 no. dwellings, comprised of 1 no. studio apartment, 17 no. 1 bed apartments & 32 no. 2 bed apartments. Block C also includes a 1 storey creche (c.140sq.m) at ground floor level, with associated outdoor play space (c.233sq.m). A bicycle store is accommodated at ground floor and a communal roof garden (c.168sq.m) provided on the 6th floor.
- **Block D** is a four to five storey building accommodating 29 no. dwellings, comprised of 2 no. studio apartments, 17 no. 1 bed apartments & 10 no. 2 bed apartments. Block D also accommodates c. 519sq.m of floor space intended to be used as community/arts & culture space at ground and first floor (facing onto Greenmount Lane). Bin and bicycle stores, and communal open space (c. 294sq.m) are accommodated at ground floor.
- The proposed development provides for public open space (c.1,355sq.m), hard and soft landscaping & boundary treatments. Communal residential amenity areas and open spaces are provided for in the form of communal roof gardens and communal rooms associated with the individual buildings. Additional communal open space is provided at ground level totalling c.862sq.m. Private open spaces for the proposed dwellings are provided as terraces at ground floor level of each block and balconies at all upper levels.
- Car parking is to be provided in the form of surface and basement level car parking (63 no. spaces in total). Blocks B & C are located above the proposed basement, which accommodates 56 no. car parking spaces (including EV & mobility impaired parking spaces), 4 no. motorcycle spaces and 444 no. bicycle parking spaces (including 10 no. cargo bike spaces & 60 no. electric bike spaces). There are an additional 7 no. surface level car parking spaces proposed (i.e., 4 no. club car spaces, 1 no. EV space & 2 no. mobility impaired spaces), and 60 no. surface bicycle parking spaces. Bicycle parking is also accommodated at ground floor level

within Blocks A, B, C & D (120 no. spaces total).

- The proposed development includes for all associated site development works above and below ground, bin & bicycle stores, plant (M&E), 2 no. sub-stations / switch rooms, public lighting, servicing, signage, etc.

## 2.2. Development Parameters:

Proposed Development							
Site Area	1.066ha.						
No. of Units	The development includes:						
	Block	Total No. Units	No. Studios	No. 1 bed / 2 person units	No. 2 bed / 3 person units	No. 2 bed / 4 person units	No. 3 bed / 5 person units
	A	51	1	32	1	17	0
	B	51	2	18	2	28	1
	C	50	1	17	2	30	0
	D	29	2	17	8	2	0
	Total	181	6	84	13	77	1
	% Mix	100%	3%	46%	7%	43%	1%
Building Height	Scheme arranged in 4 no. blocks that vary in height:  Block A - 4-6 storeys over basement level.  Block B - 3-7 storeys over basement level.  Block C – 3-7 storeys over basement level.  Block D – 4 -5 storeys over basement						
Dual Aspect	A total of 124 no. units or (70% of the total) are provided as dual aspect units.						
Demolition	Demolition of existing structure on site – total GFA – 3730sqm						
Density	180 u/ha.						
Plot Ratio	1.52						
Site Coverage	40%						

Public and Communal Open Space	A publicly accessible space of approximately 1355sqm (13%) provided. Communal Open Space – 1707sqm Creche External Play space: 126sqm
Non-Residential	The proposed scheme includes: Creche [35 children's spaces] 138sqm Retail/ Commercial [1 Unit] 174sqm Community Use [Artist Workshops] 665sqm
Car Parking	63 no. car parking spaces
Cycle Parking	624 no. bicycle storage spaces
Part V	36 no. units

**2.3.** In addition to the standard plans and particulars, the application is accompanied by the documents and reports which include inter alia:

- Planning Report and Statement of Consistency
- Statement of Response to DCC LRD Opinion
- Childcare and School Demand Assessment
- Community Safety Strategy
- Social Infrastructure Assessment
- Building Lifecycle Report
- Property Management Strategy Report
- Universal Design Statement
- Housing Quality Assessment
- Infrastructure Design Report
- Site Specific Flood Risk Assessment
- Construction & Environmental Management Plan
- Traffic & Transport Assessment & Mobility Management Plan
- Stage 1 Road Safety Audit
- Basement Impact Assessment
- Landscape Report
- Play Strategy
- Arboricultural Assessment
- Hydrological & Hydrogeological Qualitative Risk Assessment
- Operational Waste Management Plan

- EIAR Screening Report Statement in accordance with Article 299B (1)(b)(ii)(II)(C)
- Resource and Waste Management Plan
- Biodiversity Enhancement Plan
- Appropriate Assessment Screening Report
- Ecological Impact Assessment
- Architectural Heritage Impact Assessment
- Verified Views and CGI
- Daylight and Sunlight Analysis
- Archaeological Assessment
- Wind Microclimate Modelling
- justification for Demolition Report
- Outdoor Lighting Report
- Townscape and Visual Impact

### **3.0 Planning Authority Pre-Application Opinion**

- 3.1.1. A section 32 Consultation Meeting took place on the 28<sup>th</sup> of August 2023 with representatives of the applicant and planning authority in attendance.

A Large-Scale Residential Development (LRD) Opinion issued and set out that the documentation submitted constituted a reasonable basis for an application for permission for the proposed LRD under Section 34 of the Act.

The application includes a response to the LRD Opinion issued by Dublin City Council and a response to the points of specific information requested. This is included in the documentation on file from the planning authority.

- 3.1.2. The items raised in the LRD Opinion included:

1. Massing and height
2. Residential Amenity (including justification report for demolition)
3. Drainage (including SSFRA)
4. Conservation
5. Parks
6. Arboriculture
7. Biodiversity
8. Transportation



## **4.0 Planning Authority Decision**

### **Decision**

Dublin City Council issued a decision to refuse planning permission for two reasons:

1. Having regard to the location of the subject site largely within the Poddle River Flood Zone B, as identified in the Dublin City Development Plan 2022-2028 Strategic Flood Risk Assessment (SFRA) and in the absence of the Poddle River Flood Alleviation Scheme being implemented, taking into consideration the proposal for residential development which is classified as Highly Vulnerable development under the DEHLG/OPW Guidelines on the Planning Process and Flood Risk Management, the applicant has failed to demonstrate that the development meets the applicable criteria for the Justification Test for Development Management as required by the DEHLG/OPW Guidelines and the Dublin City Development Plan 2022-2028. Furthermore, the proposal for raising the ground levels on the site does not appear to consider the criteria in accordance with Section 4.10.2 of the Dublin City Development Plan 2022-2028 SFRA. The development would therefore be contrary to the policies set out in Dublin City Development Plan 2022-2028, specifically Policy SI14 (Strategic Flood Risk Assessment) and SI 15 (Site-Specific Flood Risk Assessment) which seek to ensure development complies fully with the recommendations of the SFRA and the DEHLG/OPW Guidelines and as such would be contrary to the proper planning and sustainable development of the area.
2. Due to the reliance on carrying out of works to the access which are outside their control, the applicant has failed to clearly demonstrate that safe access and egress to the proposed development can be provided so as not to negatively impact the free flow of traffic on the adjacent public road and within the site. As such, the proposed development would endanger public safety by reason of a traffic hazard and would therefore be contrary to the proper planning and sustainable development of the area.

### **4.1. Planning Authority Reports**

#### **4.1.1. Planning Reports**

Planner Report (31<sup>st</sup> August 2023)

The report provides a summary of the proposed development, planning policy context, planning history and summary submissions received. The report reviews the characteristics of the site and the proposed development and various national policies and provisions of the development plan.

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

#### Demolition of Existing Structures

The Planning Authority acknowledge the loss of the existing residential uses on the site but are cognisant of the intensification of the residential use of the proposed development, the proposal to encourage more sustainable modes of transport within the development in addition to improved connectivity through the site with a more active interface with their site frontages of Harold's Cross Road and Greenmount Lane.

#### Zoning

The proposed development is consistent with the Z1 land-use zoning objectives for the site.

#### Architectural Design Statement

The detailed design of the development proposal has been guided by the 12 criteria of assessment as set out in the Urban Design Manual (2009). These then feed into the masterplan and how the development provides for a quality and sustainable new neighbourhood.

The design seeks to respond to the ABP refusal in two ways it is noted. The first is the disposition and to show that the method and layout of the development represents the optimum way of delivering high density development to this site. Secondly to respond to the scale and massing of the blocks borne out by the verified views in the previous refusal and to show that with changes to reduce the scale and massing, this deals with the concern in relation to the visual impact.

#### Massing, Scale and Height and Visual Impact

Noting the previous scheme which was refused based on the scale and massing and also in relation to the design which the Board considered would result in a visually incongruous development from certain locations. Referencing the Townscape and

Visual Impact Assessment and Verified Views by 3D Design Bureau, which has 15 verified images submitted in response to the Opinion Issued by the PA, from the Planning Authority perspective the issues of bulk, scale and massing have been reduced in this applicant from the previous scheme which was refused by the Board. Block A has been reduced by 1 storey and Block B by 2 stories with Block C by 1 storey.

#### Impact on Adjoining Residential Amenity

*Overlooking* – The PA assessment notes no major concerns.

*Sunlight and Daylight Assessment Report* - It is concluded that the results are reasonable, and that the development does not cause significant overshadowing to adjoining residential properties given these results. It was further noted that the Annual Probable Sunlight Hours (APSH) was assessed for the windows on Parnell Road, Greenmount Lane, and Limekiln Lane and for the Greenmount Office Park for winter and annual. There was a total of 144 windows assessed with both results showing that impact was overwhelmingly having an imperceptible impact, only 2 with a slight impact for Annual and 1 for a slight impact for 1 winter.

*Sun on Ground (SOS) in Proposed Outdoor Amenity Areas* - The properties on Parnell Road, Greenmount Office Park, Boyne Court and Harold's Cross Road and 23 Harold's Cross Road were assessment. All were found to be BRE compliant, and the development will have a negligible impact on them. It found that out of the 15 outdoor spaces identified, 4 areas did not reach the target. It was noted that the occupants were able to access other communal and open spaces which would receive good levels of sunlight throughout the year.

*Sunlight Exposure (SE) in Proposed Habitable Rooms* - The assessment showed that 86% of the proposed units meet the criteria for sunlight exposure.

*Spatial Daylight Autonomy (SDA) in Proposed Units* - This has been assessed across all habitable rooms, accounting for 448 no. habitable rooms. The compliance rate is 75% without trees, and then with trees in winter (proposed and existing trees) the compliance rate is 72% and in summer with trees (proposed and existing) the rate is 70%. The report notes that compensatory measures have been incorporated into the design of the development where rooms do not achieve the daylight provision target.

*Plot Ratio, Site Coverage and Density* -The subject application proposes 181 No. units, on a site area of 1.06ha which equates to a gross residential density of 171 Units per Hectare. The density is considered to be suitable given its location and it is noted that the site is within walking distance to the City Centre and has good public transport links. However, while the site is considered suitable for high density development, the Development Standards of the City Development Plan, requires that the density of a proposal should respect the existing character, context and urban form of an area and seek to protect existing and future residential amenity.

In relation to site coverage the applicant has a site coverage of 38% with the CDP stating an indicative site coverage of 45-60% for outer employment and residential areas.

With regards to plot ratio the development has a plot ratio of 1:1.21 with the CDP indicating an indicative plot ratio of 1.0 – 2.5.

#### Residential Standards

*Residential Mix* - The development provides for just under the maximum requirement of 50% studio and 1 bed units within the development. SPPR1 of the Apartment Guidelines state that statutory Development Plans may specify a mix for apartments and other housing developments, but only further to an evidence-based Housing Need and Demand Assessment (HNDA) that has been agreed on an area, county, city or metropolitan area basis and incorporated into the relevant development Plan. The site in question it is noted falls outside of those areas identified. Overall, it is considered that the mix complies with the Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities, DoHPLG, 2023. Relevant standards for residential accommodation are set out Sustainable Urban Housing: Design Standards for New Apartments Guidelines 2023.

*Floor Areas* - minimum floor areas are achieved for all units, 59% of the units exceed the minimum floor area by 10%. 50% of these units are capable of being adapted as universal design units with equates to 30% of all the unit.

*Dual Aspect* - 59% are dual aspect, 6% triple aspect with 35% single aspect with not north facing single aspect units.

*Floor to Ceiling Height* - floor to ceiling heights of 2.650m will be provided for all floors above ground level, ground floor units will have a height of 2.7 metres, in accordance with SPPR 5 of the Apartment Guidelines.

*Lift and Stair Cores* - In accordance with the Apartments Guidelines 2023, the proposed development has a maximum of 11 apartments per floor per core.

*Storage* - All units meet or exceed the minimum standards for storage areas, with sufficient storage being provided for within the units themselves.

*Private Open Space* - private open space provided by way of terraces for ground floor units and balconies at upper floor units which are all in compliance with the minimum standards.

*Communal Open Space* - Noting the communal open space provided it is set out that the applicant exceeds the 1070sq.m that is required.

*Public Open Space* -The proposed development provides for three areas of public open space totalling 1,355sq.m which equates to 13.3%.

#### Landscaping

It is noted that the useable landscape space in the scheme is provided through a range of different landscape typologies aimed at providing different uses. The integration of these spaces has been carefully considered to ensure that the spaces are physically connected to each other and the surrounding public realm and open space network. loss of trees and boundary treatment noted.

#### Community /Cultural Space

The applicants propose to use the ground and first floor of Block D as community/arts and cultural space amounting to 519sq.m. The applicant also is proposing to utilise No.18 Greenmount Lane and No.11 Limekiln Lane to provide an additional 147sq.m giving a total of 666sq.m. Final details of the end user of the community/cultural space are to be agreed with DCC in the event of a grant of permission.

Social Infrastructure Assessment, Creche facility and retail unit noted. The Planning Authority notes that the site is well located in close proximity to services at Harold's Cross village.

#### Drainage

Noting the report from the Drainage Dept. it is set out that this site is currently undefended, and the flood risk status will remain until such time as the Poddle Flood Alleviation Scheme is constructed. Demolition of the existing 53no. dwellings and construction of 181no. dwellings is proposed on the site. Such a proposal would not be considered small scale infill and the introduction of additional people into a flood plain is contrary to the DEHLG/OPW Guidelines on the Planning Process and Flood Risk Management. The proposal also includes for raising the ground levels on the site however does not appear to consider the criteria in accordance with section 4.10.2 of the Dublin City Development Plan 2022- 2028 Strategic Flood Risk Assessment. DPPDC would have concerns around the assumptions and conclusions reached by the applicant in the Site-Specific Flood Risk Assessment and therefore should be refused.

#### Traffic Access, Parking, Construction Management.

In principle, the Transportation Planning Division finds the access proposals for the proposed development acceptable. However, the primary access road off Harold's Cross Road is clearly detailed in the application submission as being outside the ownership and control of the applicant, and no letter of consent has been provided to support the inclusion of the existing access road in the application. On the basis of the information submitted with the planning application, and notwithstanding their inclusion within the application site (red line) boundary, it is noted that the proposed development would be reliant on works to provide access arrangements which are outside the area under control of the applicant. The applicant has as such, not demonstrated that safe access and egress to the proposed development can be achieved.

#### Conclusion

The proposal put forward has reduced the scale and bulk of Block A, Block B and Block C and has amended to design to break up the elevations. It is considered that the changes put forward have resulted in a development which while significantly higher and denser than the surrounding low density housing, is considered to be in line with the National, Regional and Dublin City Development Plan policy on the intensification of appropriately located underutilised sites such as this.

However the PA recommended 4.0 above relating to the location of the site in Flood Zone B, the site is currently undefended, and the flood risk status will remain until such time as the Poddle Flood Alleviation Scheme is constructed and the fact that the applicant's do not have ownership of the lane as regards access/egress.

#### **4.2. Other Technical Reports**

##### **Internal departmental reports:**

**Transportation Planning Division** (22<sup>nd</sup> February 2024). Refusal recommended.

**Engineering Department - Drainage Division** (15<sup>th</sup> February 2024). Refusal recommended.

**Environmental Health Officer** (31<sup>st</sup> January 2024). No objection subject to conditions

**Archaeology Section** (15<sup>th</sup> February 2024). No objection subject to conditions.

**Parks Department** (Report not dated) No objection subject to conditions.

#### **4.3. Prescribed Bodies**

The planning authority referred to the application to the relevant prescribed Bodies. No reports were received.

#### **4.4. Third Party Observations**

A number of submissions were made from local residents and local resident groups.

Issues raised in the submissions included inter alia the following:

##### Principle/Density

- previous refusal reasons remain unaddressed.
- Lack of a Local Area Plan for Harold's Cross
- Overdevelopment of the site
- Harold's Cross is now a Priority Architectural Conservation Area under New Development Plan
- Not clear if the artist studios are intended as live work studios.
- Piecemeal development/uncoordinated development
- Does not comply with Z1 zoning objective.
- precedent for similar backland sites outside of the canal ring
- Contrary to policy CA5 on retaining and retrofitting existing buildings rather than

demolition.

- transport/drainage/water services and flood risk

#### Design/Conservation/Visual Impact

- Development is too high/too dense.
- Visual Impact, Appearance is out of character with the area.
- Negative impact on the visual amenity of the area
- Does not provide a sufficiently active streetscape.
- Do not concur with the conclusions of the Visual Impact Assessment (VIA)
- Impact on built heritage and the Grand Canal Conservation Area.
- Residential Amenity - Impact on privacy, overlooking, overshadowing, noise
- Impact of the crèche on residential amenity
- Mix of development not suitable for families, does not comply with unit mix.

#### Traffic and Transportation

- Construction traffic management.
- Traffic congestion on surrounding roads and capacity of surrounding roads/laneways
- Use of access to Greenmount Office Park - not in applicant's ownership,
- safety concerns
- Additional cycle parking needed to serve childcare facility.
- Obstructions to fire access (street furniture / landscaping features).

#### Flood Risk/Site Services

- Flood Risk - Location of the underground river needs to be determined (The Poddle)
- No new development should be allowed until the completion of the River Poddle Flood Alleviation Scheme.

#### Ecology/Trees/AA

- Existing trees should not be damaged.
- The Screening for EIA presented by the Developer, including Ecological report is inadequate and deficient and does not permit an assessment of the potential environmental impacts of the proposed development.
- Insufficient information in the NIS in relation to the impact of the proposed development on bird and bat flight lines/collision risks in AA screening.

#### Other



- Impact on access to light Greenmount Business Park Impact on structural stability of surrounding properties/no foundations in these properties
- Demolition of existing duplexes will see eviction of the current tenants, displacing 150 – 200 existing residents with disruption to community and increased risk of homelessness.
- Impact on property values
- No mention of the embodied carbon within this dwellings/demolition is not in keeping with the City's climate objectives, retrofitting preferable.
- Location of Part V allocation runs contrary to inclusive and sustainable community building.
- Existing wall at the end of gardens of House Numbers 5-7 Parnell Road, - wall should be reinstated or rebuilt to the same height as currently.
- Crèche is in an inappropriate location.
- Health and safety risk as a result of the basement car park
- Site notice was not affixed to a wall in front of Clare Villas until 29/01/24 giving them less notice time for submissions.
- Contiguous elevations are inaccurate.
- Presentation to DCC Area Committee with only 7 councillors present and was on the last day for submissions.
- Insufficient boundary treatment
- Red line boundary contains area of land that is not within the applicant's ownership.
- Potential for transient occupants and possibly students

## 5.0 Planning History

### Site

**ABP SHD Reg. Ref. 314124-22** - Permission **refused** on 27/10/2022 for the demolition of existing buildings on site, construction of 194 no. apartments, creche and associated site works for the following reason:

*'Having regard to the massing, scale, extent and design of the overall proposed development, in conjunction with the disposition of the proposed buildings on site, it is considered that the proposed development would be **visually incongruous** at the prominent location, would fail to respond adequately or integrate in a cohesive manner*

*with the immediate and surrounding built environment and would fail to make a make a positive contribution to the urban neighbourhood and streetscape. The proposed development would seriously injure the character and visual amenity of the wider area and would not be justified under the criteria for additional height set out in the Urban Development and Building Heights Guidelines for Planning Authorities, issued by the Department of Housing, Planning and Local Government in December 2018. The proposed development, would, therefore, be contrary to the proper planning and sustainable development of the area’.*

**ABP ref. PL29S.247583 / DCC Reg. Ref. 3605/16** – Permission refused in 2017 for demolition of 4no. 3-storey duplex residential buildings and construction of 121 no. residential units with 1 no. crèche.

**ABP ref. PL29S.214671/ DCC Reg Ref. 4261/05** - Permission refused in 2006 for 66 no. dwellings and 6 no. live / work units in five buildings ranging in height from 4-6 storeys. Alterations to no.47 and 48 Harold Bridge Court were also proposed.

**ABP ref. PL29S.12 2977/DCC Reg Ref. 1499/00-** Permission refused in 2001 for 8 no. 1 bedroom apartments and 31 no. 2 bedroom apartments and 2 no. ground floor apartments with 2 no. 3 bedroom duplex units.

**DCC Reg. Ref. 1305/93** - Permission granted for 48 no. residential units in 4 no. 3 storey blocks and associated site development works on 2.25-acre site.

#### In the Vicinity

**ABP ref. HA29N.317660** – Awaiting Decision. BusConnects Kimmage to city centre core bus corridor scheme. Proposed route runs along Harolds Cross Road fronting the site.

## **6.0 Policy Context**

### **6.1. National**

#### **The National Planning Framework – Project Ireland 2040, (2018).**

This document sets out the Governments strategic national plan for shaping the future growth and development of Ireland for the period up to 2040.

Of note National Strategic Outcome 1 (Compact Growth), sets out the focus on pursuing a compact growth policy at national, regional, and local level.

## **Housing for All – A New Housing Plan for Ireland to 2030, 2021.**

The government's housing plan to 2030. It is a multi-annual, multi-billion-euro plan which aims to improve Ireland's housing system and deliver more homes of all types for people with different housing needs.

## **Climate Action Plan, 2023.**

Implements carbon budgets and sectoral emissions ceilings and sets a roadmap for taking decisive action to halve our emissions by 2030 and reach net zero no later than 2050. By 2030, the plan calls for a 40% reduction in emissions from residential buildings and a 50% reduction in transport emissions. The reduction in transport emissions includes a 20% reduction in total vehicle kilometres, a reduction in fuel usage, significant increases in sustainable transport trips, and improved modal share.

## **Section 28 Ministerial Guidelines**

Having considered the nature of the proposed development sought under this application, its location, the receiving environment, the documentation contained on file, including the submission from the Planning Authority, I consider that the following guidelines are relevant:

- Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024)
- Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2023) (the 'Apartment Guidelines').
- Urban Development and Building Height, Guidelines for Planning Authorities (2018) (the 'Building Height Guidelines').
- Architectural Heritage Protection Guidelines for Planning Authorities Department of Arts, Heritage, Gaeltacht 2011
- Framework and Principles for the Protection of the Archaeological Heritage Department of Arts, Heritage, Gaeltacht and the Islands 1999.
- Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities', 2007.
- Urban Development and Building Heights – Guidelines for Planning Authorities, 2018.

- Childcare Facilities – Guidelines for Planning Authorities (2001)

## 6.2. Other

### **Greater Dublin Area Transport Strategy 2022-2042 (NTA)**

This sets out a framework aiming to provide a sustainable, accessible and effective transport system for the area which meets the region's climate change requirements, serves the needs of urban and rural communities, and supports the regional economy.

## 6.3. Local

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

The appeal site is subject to land use zoning:

- Z1 – Sustainable Residential Neighbourhoods with a stated objective '*to protect, provide and improve residential amenities*'.

Under the Z1 land-use zoning residential, shop (local), childcare and community facility, cultural/recreational building and uses are all listed as permissible uses and, as such, the proposed development is considered to be acceptable in principle.

#### Other Designations:

- There are no Protected Structures on the site.
- There are neighbouring Protected Structures to the north-west on Parnell Road, whose rear gardens abut the subject site. RPS 6342 – 6350 Nos 1- 8a Parnell Road.
- The site is located to the south of the Grand Canal red hatched 'Conservation Area'.

### **Relevant policies and standards of the Dublin City Development Plan 2022-2028 include:**

Section 2.2.3 Settlement Strategy

Section 2.2.6 Public transport.

Section 2.7.2 Active Land Management –

*CS07 Promote Delivery of Residential Development and Compact Growth* - To promote the delivery of residential development and compact growth through active land management measures and a co-ordinated approach to developing appropriately

zoned lands aligned with key public transport infrastructure, including the SDRAs, vacant sites and underutilised areas.

#### Chapter 4 Shape and Structure of the City.

This chapter includes SC10 (urban density), SC23 (Design Statements)

Section 4.5.4 of the Development Plan, set out the Planning Authority's strategy and criteria when considering appropriate **building heights**, including reference to the performance-based criteria contained in the **appendix 3 to the Development Plan**.

#### Chapter 5 - Quality Housing and Sustainable Neighbourhoods

Under housing policy QHSN2 of the Development Plan, the Planning Authority will have regard to various Ministerial Guidelines, a number of which are listed in Section 6.1 above.

Policies SC15 to SC17 inclusive in section 4.5.4 of the Development Plan, set out the Planning Authority's strategy and criteria when considering appropriate building heights, including reference to the performance-based criteria contained in the aforementioned appendix 3 to the Development Plan.

Policy QHSN10 of the Development Plan promotes sustainable densities with due consideration for design standards and the surrounding character.

The Development Plan includes a host of policies addressing and promoting apartment developments, including policies QHSN35 -Housing and Apartment Mix, QHSN36, QHSN37, QHSN38 and QHSN39.

HSN3 (Housing Strategy & HNDA), QHSN10 (urban density), QHSNO11 (universal design), QHSN26 (High Quality Apartment Development), QHSN47(High Quality Neighbourhood and Community Facilities).

In addition, Chapter 5 outlines a range of policies and objectives aimed at promoting regeneration, urban consolidation, densification, and healthy placemaking.

Chapter 7 relates to The City Centre, Urban Villages and Retail

**CCUV43 Public Realm** - Key Urban Villages/Urban Villages - *To provide environmental and public realm improvements in Key Urban Villages and urban villages around the city through the implementation of Local Environmental Improvement Plans / Village Improvement Plans and placemaking strategies in order*

*to support the regeneration and revitalisation of the city's urban villages....*

## Chapter 11 Built Heritage and Archaeology

Section 11.5.3 Built Heritage Assets of the City - *Designated Conservation Areas include extensive groupings of buildings, streetscapes and associated open spaces and include (parts of) the medieval/walled city, the Georgian Core, the 19th and 20th century city, and the city quays, rivers and canals. The special interest/value of Conservation Areas lies in the historic and architectural interest and the design and scale of these areas. Therefore, all of these areas require special care in terms of development proposals. The City Council will encourage development which enhances the setting and character of Conservation Areas.*

*As with Architectural Conservation Areas, there is a general presumption against development which would involve the loss of a building of conservation or historic merit within the Conservation Areas or that contributes to the overall setting, character and streetscape of the Conservation Area*

- Policy BHA7 and BHA9 (Conservation Areas) of the City Plan seeks to protect the special interest and character of Conservation Areas.

Other relevant sections of the Development Plan include:

Section 4.5.3 – Urban Density (policies SC10, SC11, SC12 and SC13);

Section 4.5.9 – Urban Design & Architecture (policies SC19, SC20, SC21, SC22 and SC23);

Section 5.5.2 Regeneration, Compact Growth and Densification (policies QHSN6 Urban Consolidation, QHSN9 Active Land Management, QHSN10 Urban Density)

Section 8.5.1 - Addressing Climate Change through Sustainable Mobility;

Section 9.5.1 – Water Supply and Wastewater;

Section 9.5.3 – Flood Management.

Section 9.5.4 – Surface Water Management and Sustainable Drainage Systems (SuDS);

Section 10.5.7 – Urban Forest

GI41 - Protect Existing Trees as Part of New Development - *To protect existing trees*

*as part of new development, particularly those that are of visual, biodiversity or amenity quality and significance. There will be a presumption in favour of retaining and safeguarding trees that make a valuable contribution to the environment.*

## Chapter 12 -Culture

**Objective CUO25** of the Development Plan requires that for all large-scale developments above 10,000sq.m in total area, a minimum of 5% community, arts and culture spaces including exhibition, performance and artist workspaces predominantly internal floorspace is to be provided.

Chapter 15 contains Development Standards

Section 15.4 – Key Design Principles;

Section 15.5 – Site Characteristics and Design Parameters;

Section 15.8 - Residential Development;

Section 15.9 – Apartment Standards.

Appendix 3. Achieving Sustainable Compact Growth Policy for Density and Building Height in the City.

Section 3.2 Density -As a general rule, the following density ranges and Plot Ratio standards will be supported in the city.

**Table 1: Density Ranges**

Location	Net Density Range (units per ha)
City Centre and Canal Belt	100-250
SDRA	100-250
SDZ/LAP	As per SDZ Planning Scheme/LAP
Key Urban Village	60-150
Former Z6	100-150
Outer Suburbs	60-120

**Table 2: Indicative Plot Ratio and Site Coverage**

Area	Indicative Plot Ratio	Indicative Site Coverage
Central Area	2.5-3.0	60-90%
Regeneration Area	1.5-3.0	50-60%
Conservation Area	1.5-2.0	45-50%
Outer Employment and Residential Area	1.0-2.5	45-60%

## Appendix 5 Transport and Mobility: Technical Requirements

## Appendix 7 Strategic Flood Risk Assessment

- 4.10.2 Ground Levels, Floor Levels and Building Use
- SI14: *Strategic Flood Risk Assessment* of Appendix 7 of the CDP SFRA relates to implementation and compliance with the recommendations of the Strategic Flood Risk Assessment prepared as part of the Dublin City Development Plan 2022-2028.
- SI15: *Site-Specific Flood Risk Assessment* requires all development proposals shall carry out, to an appropriate level of detail, a Site-Specific Flood Risk Assessment (SSFRA) that shall demonstrate compliance with The Planning System and Flood Risk Management, Guidelines, and the Strategic Flood Risk Assessment (SFRA) as prepared by this Development Plan. The application of the sequential approach, with avoidance of highly and less vulnerable development in areas at risk of flooding as a priority and/ or the provision of water compatible development only. Where the Justification Test for Plan Making and Development Management have been passed, the SSFRA will address all potential sources of flood risk and will consider residual risks including climate change and those associated with existing flood defences. The SSFRA will include site-specific mitigation measures, flood-resilient design and construction, and any necessary management measures.....

## Appendix 16 Sunlight and Day Light.

### 6.4. Natural Heritage Designations

The appeal site is not located within or adjacent to any European Designed sites or pNHA, NHA.



## **7.0 The Appeal**

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

A first-party appeal has been lodged only against the decision of Dublin City Council to refuse planning permission for the proposed development. The following grounds of appeal are raised:

#### Refusal Reason 1: Implementation of the Poodle River Flood Alleviation Scheme

- The grounds of appeal set out that the Poodle Flood Alleviation Scheme works commenced as of February 2024. Response refers to technical note (dated 26<sup>th</sup> March 2024) from DBFL noting review of Poddle FAS website sets that works have commenced. The response included an outline schedule of works following consultation with the South Dublin County Council project Engineer for the scheme including the programme for full completion of scheme in Q1 2027.
- It is set out to refuse on this basis is unwarranted and the delivery of the proposed development will take place in tandem with the flood alleviation programme.
- The applicant is willing to accept a condition that no unit be occupied until the Poodle Flood Alleviation Works are complete.
- The SSFRA identified a large portion of the site in Flood Zone B and a Justification Test is provided for same. It is also argued that the location passed the justification test as part of the DCC SFRA (2022-2028).
- The Justification Test asserts that the FFL's are set at 22.10mAOD for the apartment blocks. This provides an additional 100mm above the 0.1% AEP flood level. Proposed floor levels are also set above the existing floor levels at between 400mm to 600mm higher than the existing FFL's.
- As per the DCC SFRA 2022 – 2028 DDL's have been raised a minimum of 300mm above existing road levels/pavement heights to ensure flow paths do not become obstructed and ensure appropriate standards of flood resilient construction.
- It is set out that in the assessment of the previous SHD on the site (ABP

314124-22) both DCC and ABP accepted the SAFRA.

- There have been no major changes since the previous SHD application and the current LRD proposal.
- The Board is referred to the flood mitigation measures proposed in the interim in advance of the Poodle Flood Alleviation Scheme being completed, which were previously accepted as part of the SHD application (as set out in the DBFL Consulting Engineers Report - Appendix to the Appeal).
- The Appeal addresses section 4.10.2 of the Dublin City Development Plan 2022 – 2028 - Strategic Flood Risk Assessment in Appendix C of the DBFL Consulting Engineers Report Appendix to the Appeal.
- As part of the LRD a review of the CDP was undertaken. The relevant section for the subject site is Area 15 Poodle: Grand Canal. It is set out that the text is very similar to the 2016-2022 plan, the only difference being that the 2022-2028 SFRA referenced work commencing in 2022. Based on this the same mitigation measures as per previous SHD were applied.

#### Refusal Reason 2: Reliance on Works Outside of the Applicant's Control

- It is set out that the applicant has had the site surveyed and can confirm that they have a right to pass over the aamin entrance into the site from the Harold's Cross Road.
- Reference is made to the map submitted prepared by Land Surveys which confirms (a) the lands in the ownership of the applicant and (b) the existing right of way that the applicant has a right of way/right of passage over, and which the applicant has utilised for the past thirty years, i.e., the Harolds Cross Court development.
- It is set out that the design of the development provides for adequate access/egress to the development and the DCC Transportation Planning Dept. found access acceptable.

## **7.2. Planning Authority Response**

7.2.1. A response was received from the Planning Authority on 30<sup>th</sup> April 2024. The response requests that the Bord uphold the decision to Refuse Permission. If permission is granted the Planning Authority request conditions relating to:

- Section 48 contribution
- Bond
- Payment in lieu of open space
- Social housing conditions
- Naming and numbering
- Management company

7.2.2. The response was accompanied by reports from the Drainage Division and Transportation Planning Division

*Drainage Division*

- The report notes the appeal submission and sets out that the proposal to deliberately flood the basement car park during storm events is not appropriate because the area would be used by residents, the PA believe this could pose a serious safety risk.
- Development would be premature pending the completion of the Poddle Flood Alleviation Scheme.

*Transportation Planning Division*

- It is noted that the first party confirms that there is an existing right of way over the access road from Harold's Cross Road which allows the applicant to access the site. However, it is noted that the material re-asserts that the road is not in the ownership of the applicant. No letter of consent from the owner of the access road has been provided.
- It is set out that while the principle of works are acceptable this would only be subject to the delivery of works on an access road which is not on the ownership of the applicant.

### **7.3. Observations**

11 No. observations have been received. There is an overlap in the observations received and I have grouped for clarity. The observations generally raise concerns with respect to:

- Flood Risk
  - Regarding commencement of the Poodle River Flood Alleviation Scheme these works are not in proximity to the subject site and will therefore have no direct effect on the implication of flood risk on the subject lands.
  - The timeline provided by the applicant is best case scenario.
  - The development has not taken account of the population explosion in the area in the last 10 years and the associated increase in surface water entering the River Poodle along with climate change and change in absorption rates has exacerbate the level and frequency of fluvial events.
  - The development does not consider the implications of raising the ground level and the risks associated with this on the surrounding area.
  - Impact of 2011 flooding
- Access - It is set out that the access is not highlighted in yellow on Land Direct. The applicant has failed to provide a letter of consent for the ownership of the land outside of the red line boundary and lack clear confirmation of the right of way.
- Additional traffic generated, creation of traffic hazards and potential for overspill car parking.
- Capacity of Limekiln Lane and safety concerns. No need to provide permeability at this point. Limekiln lane should remain a cul de sac.
- Capacity of Greenmount Lane (4m width).
- Construction traffic, Construction Works (site excavation) and Carbon Emissions
- Demolition and Displacement
- Not in keeping with the character of the area.
- Impact on Grand Canal Conservation Area – would result in negative

environmental, architectural and ecological consequences.

- Scale, Height and Density
- The development would obstruct views and hinder the historic landscape.
- Concerns as regard elevation treatment and impact of the existing Harold's Cross Road Streetscape.
- High no. of apartments suggests there could be transient occupants and possibly students.
- Negative impact on established residential amenity.
- Negative impact on established residential amenity - Loss of sunlight, daylight and right to light /overshadowing.
- Noise and Pollution
- Contiguous elevations presented obscure the scale and height of the tower blocks and conceal the extent of overbearing and overlooking.
- No section drawings of the site changes in levels for the rear gardens of nos. 1-7 Parnell Road
- Essential boundary walls retained following the proposed demolition of 1-3 Clare Villas.
- Architectural drawings not accurate and misleading
- Replacement of Artist Workshop in block D reduces the floor area by c. 35% and reduced floor to ceiling height. The existing open space is more suitable for artists.
- Loss of trees
- Impact on value and structural integrity of surrounding property
- Concerns about the location of the crèche and future access from the narrow Lime Kiln Lane

## **8.0 Assessment**

- 8.1. Having inspected the site and examined the application details and all other documentation on file, including all of the submission received in relation to the appeal,

and having regard to relevant local/national policies and guidance, I consider that the main issues in this appeal can be addressed as follows:

- Principle of Development
- Density, Visual Amenity & Building Height
- Impacts on adjoining Residential Amenities
- Impact on the character of the Area and Built Heritage
- Landscape Strategy - Permeability, Trees & Biodiversity
- Flooding (DCC Refusal no. 1)
- Water Services Infrastructure
- Traffic and Transport (Access Arrangements – DCC Refusal no. 2)
- Other Matters

Note: I draw the Boards attention to the previous application on this site - ABP SHD Reg. Ref. 314124-22. Whilst I have had regard to the planning history, this application has been assessed on its own merits.

## **8.2. Principle of Development**

### *Zoning*

- 8.2.1. The proposal provides for the demolition of all existing buildings on site for the development of 181 dwellings in 4 apartment blocks 3-7 storeys in height. The development also includes a retail unit, creche and community/arts & culture units and all associated site works.
- 8.2.2. The site is zoned Z1 – Sustainable Residential Neighbourhoods in the Development Plan with the stated zoning objective *‘To protect, provide and improve residential amenities.’* Residential uses, childcare facility, cultural/recreational building and uses and shop (local) are ‘permissible’ within this zoning category. In addition, the provision of residential development on lands zoned Z1 would be consistent with the policies of the Planning Authority as set out in policy CS07 *Promote Delivery of Residential Development and Compact Growth* to encourage the development of underutilised and brownfield sites, with a view to consolidating and adding vitality to existing centres and ensuring the efficient use of urban lands. I consider the provision of an apartment complex, retail unit, creche, community/arts& culture units consistent with the concept

of urban sustainability and provides for increased residential density in an urban area in line with the objectives of the National Planning Framework.

*5% Community, Arts and Cultural spaces - Objective CU025*

- 8.2.3. At present, the existing warehouse building, fronting onto Greenmount Lane, is in use by The MART Gallery & Studios, since 2019. The building is in use as artist studios and sustainable workspace for the creative community in Dublin. This building is proposed for demolition.
- 8.2.4. Objective CU025 of the Development Plan requires that for all large-scale developments above 10,000sq.m in total area, a minimum of 5% community, arts and culture spaces including exhibition, performance and artist workspaces predominantly internal floorspace is to be provided.
- 8.2.5. In compliance with same, the proposed development includes for the provision of c. 519sq.m of floorspace at ground and first floor level of Block D to be dedicated to community/arts & culture uses. The submitted floor plans illustrate that this floorspace could be subdivided into 10 no. individual units, if required. The reminder of the required floorspace will be accommodated in the adjoining cottages to the immediate south of proposed Block D, i.e. No. 18 Greenmount Lane and No. 11 Limekiln Lane which are proposed to be converted from existing residential use to proposed community/arts & culture, providing a combined 147sq.m of additional floor area.
- 8.2.6. Taking into account the total proposed residential floorspace of 12,002.33m<sup>2</sup> along with the proposed 980m<sup>2</sup> of non-residential uses, the total floor area of the proposed development is 12,982.33m<sup>2</sup>. 5% of this area equates to 649m<sup>2</sup>. In compliance with CU025, it is proposed to provide c.666m<sup>2</sup> of floorspace to accommodate community/arts & culture use, thus complying with the need to provide c.649m<sup>2</sup> of such floorspace/use in accordance with the requirements of Objective CU025 of the Development Plan.
- 8.2.7. Final details of the end user of the proposed community/cultural use space are to be agreed with DCC upon a grant of permission. I am satisfied that this approach is acceptable. I note the concerns raised in the observations as regards the size and scale of the spaces proposed relative to the existing warehouse, however, I note the applicant has provided for variety and flexibility in the design of the unit/units. I am

satisfied that the proposed development represents compliance with Objective CUO25 of the Development Plan.

#### *Apartment Standards*

- 8.2.8. It is considered that the proposed development in terms of floor areas, privacy, aspect, natural light and ventilation and private open space would be acceptable and in accordance with Development Plan standards and the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, 2023. The Planning Authority have raised no issues in this regard.
- 8.2.9. Regarding observations that the development provides for transient occupants and students. The units mix provides for a mix of studio, one bed, two-bed and some three-bed units and caters for all housing needs in accordance with relevant standards. I have no concerns in this regard. Similarly, the PA consider the unit mix acceptable.
- 8.2.10. SPPR1 of the Apartment Guidelines state that statutory Development Plans may specify a mix for apartments and other housing developments, but only further to an evidence-based Housing Need and Demand Assessment (HNDA) that has been agreed on an area, county, city or metropolitan area basis and incorporated into the relevant development Plan. The CDP includes a HNDA, however, the subject site falls outside of the 'sub-city' areas of 'Liberties' and 'North Inner City', which underwent detailed analysis to inform more appropriate unit mix targets therein. Consequently, the HNDA confirms that "SPPR 1 is applicable to the remainder of the Dublin City Council administrative areas", within which the subject site is located. The development provides for (49%) just under the maximum requirement of 50% studio and 1 bed units within the development. This is a marginal shortfall and overall, it is considered that the mix complies with the Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities, DoHPLG, 2023. I note the PA raised no concerns in this regard. I am satisfied that the proposed mix of units is in accordance with SPPR 1 of the Apartment Guidelines, which is also referenced in the current Development Plan section 15.9.1 *Unit Mix*.

#### *Demolition and Displacement*

- 8.2.11. The application involves the demolition of all existing buildings on site (c. 5,356m<sup>2</sup>):
- (a) 4 no. 3 storey duplex residential buildings (i.e. 48 no. dwellings, c. 3,542m<sup>2</sup>) and



2 no. 1 storey detached dwellings i.e. No's 49 & 50 (c. 40m<sup>2</sup> & 41m<sup>2</sup> respectively) all within Harold's Bridge Court,

(b) 3 no. 2 storey houses at No's 1-3 Clare Villas (c.331m<sup>2</sup> in total) and

(c) An existing warehouse (c.1, 248m<sup>2</sup>) and ancillary structures (c.154m<sup>2</sup>) fronting onto Greenmount Lane.

8.2.12. The Architectural Design Statement submitted states that the development site is made of three adjoining land parcels that are all under single ownership:

Parcel 1: Harold's Bridge Court apartments consist of a low rise 3 storey duplex apartments.

Parcel 2: 1-3 Clare Villas which contains a terrace of three historic 2 storey townhouses with a parking area to the front.

Parcel 3: The Mart artist studios, a Commercial/light industrial use building which is situated onto Greenmount Lane.

8.2.13. A number of observers raised concerns about the demolition works proposed and the displacement of the existing residents. A Justification Report for the demolition of existing residential and other buildings accompanied the planning application in line with policy CA6 *Retrofitting and Reuse of Existing Buildings* which seeks to promote and support the retrofitting and reuse of existing buildings rather than their demolition and reconstructions, where possible. It is the applicant's contention that the proposal will increase the number of units on the site along with providing new non-residential uses, and that the development is an efficient, compact form of development that will be built to modern Building Regulations and energy efficient standards which will be sustainable in terms of increasing the living accommodation on this urban infill site. I agree.

8.2.14. Of note, the development's Resource Waste Management Plan provides for a considerable amount of recycling of materials from the buildings and proposes to manage the demolition in stages to minimize waste, including starting the process with a soft strip for materials and fabrics within the existing buildings before demolition. The demolished structures would be further segregated for materials to be reused where possible on the site before transporting the remaining materials for recycling.

- 8.2.15. From a climate action/energy perspective, I note Development Plan provisions (including 15.7.1 and CA6) and acknowledge the 'embodied carbon' implications associated with the demolition and reconstruction of a new development. However, this must also be balanced with the wider sustainability issues associated with the proposed development and the wider policy objectives for the area, in particular compact growth. A Climate Action Energy Statement has been submitted to demonstrate how low carbon energy and heating solutions, have been considered as part of the overall design and planning of the proposed development, so that the European Energy Performance of Building Directive (EPBD) is complied with. Similarly, a Building Life Cycle Report have been submitted which addresses is Section A: An assessment of long-term running and maintenance costs as they would apply on a per residential unit basis at the time of application and in Section B: Measures specifically considered by the proposer to effectively manage and reduce costs for the benefit of residents.
- 8.2.16. I draw the Boards attention to the fact that none of the structures are included within the RPS, an ACA, or the NIAH. However, the PA at Opinion stage required greater justification for the proposed demolition of 1 -3 Clare Villas. The Architectural Heritage Impact Assessment accompanying the application provides for a justification for the demolition of the existing three houses. The report notes that these properties appear on the 1910 OS map and have been altered internally, modified and extended over the years. Appendix B of the report provides justification on the basis that the terrace does not contribute to the Conservation Area, or ACA or Protected Structures or makes a positive contribution and therefore there should not be a presumption against demolition. 'Are the houses of special interest', It is submitted as set out in the photographic evidence shows that the houses are lacking in the extent of remaining extant historic fabric, and in converting them into multiple dwellings that much of the early fabric has been lost. With respect to the 'Circular Economy' it is set out that the scale of the development and the retention of these buildings would not be a sustainable use of the lands given the location of the site. The report concludes that vestiges of the demolished house and associated walling will be retained and incorporated into the landscaping of the proposed scheme and other, of lesser interest, fabric will be retained as salvage for use elsewhere. I am therefore satisfied that the

demolition of 1-3 Clare Villas is justified. Further consideration of the impacts on Built Heritage is addressed in section 8.5 below.

- 8.2.17. Regarding concerns raised about the displacement of existing residents, I note the concerns raised and accept that existing residents will be impacted by the proposed development. However, the application must be considered in the context of compact growth and the capacity of the site to accommodate additional residents when redeveloped at an 'accessible' location supported by services and amenities. It is in the future proofing the capacity of the site to accommodate additional residents that this application must be considered. Any loss of residential units on the site will be short term limited to the duration of the build and therefore acceptable in a planning context.

### Conclusion

I consider that the principle of the proposed development acceptable within this zoning category, subject to the detailed considerations below.

I accept the temporary loss and displacement of existing residential uses on the site is regrettable, however, I am satisfied the demolition works are justified and I consider that demolition must also be balanced with the wider sustainability issues associated with the proposed development and the wider policy objectives for the delivery of housing. I note the policies and objectives within *Housing For All* and the National Planning Framework – Ireland 2040 which fully support and reinforce the need for urban infill residential development such as that proposed on sites in close proximity to quality public transport routes and within existing urban areas. I consider this to be one such site. In my view this development results in wider planning benefits, such as the delivery of a significant quantum of housing and the comprehensive redevelopment of an underutilised urban site which would support the consolidation of the urban environment, which is welcomed.

## **8.3. Density, Visual Impact & Building Height**

### *Density*

- 8.3.1. The observers consider the proposed density excessive and contrary to the prevailing density in the area.

- 8.3.2. The proposed 181 No. units, on a site area of 1.06ha equates to a gross residential density of 171 Units per Hectare.
- 8.3.3. The first party state and I would agree the Table 1 of Appendix 3 of the Development does not include a density range for Inner Suburban area or areas located on Key Public Transport Corridors like the subject site.
- 8.3.4. Section 4 of Appendix 3 sets out that there is recognised scope for height intensification and the provision of higher densities at designated public transport stations and within the catchment areas of major public transport corridors including Bus connects/Core Bus Corridors (CBC's). The Development Plan also establishes that development proposals will primarily be determined by reference to the proximity of new public transport infrastructure and to the area character. Locations for intensification must have reasonable access to the nearest public transport stop. In line with national guidance, higher densities will be promoted within 500 metres walking distance of a bus stop, or within 1km of a light rail stop or a rail station in the plan. As such highest densities will be promoted at key public transport interchanges or nodes.
- 8.3.5. Section 2.3 of the Traffic and Transport Assessment & Mobility Management Plan establishes that the subject site is well served in terms of public transport provision. There is a Quality Bus Corridor (QBC) running along Harold's Cross Road utilised by Dublin Bus routes 9, 16, 16d, 49, and 54a. The closest Luas station to the subject site is Charlemont, located 1.3km (a 16-minute walk) to the east of the proposed development site. This station is served by the Green Line which offers a connection to the city centre, Phibsborough, Ranelagh, Dundrum, and Sandyford. I am satisfied that the site is adequately served by a public transport corridor and can therefore support high density development in line with the Development Plan policies as set out above. In addition, I consider that the site is within a 'Central and/or Accessible Urban Location' in accordance with Section 2 of the Apartment Guidelines which can sustainably support higher density apartment development based on the criteria set out in the Apartment Guidelines. I note the PA raised no concerns around the density proposed.
- 8.3.6. I draw the Boards attention to the recently published Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024)

which set out that it is a policy and objective of the Guidelines that residential densities in the range 50 dph to 250 dph (net) shall generally be applied at 'City – Urban Neighbourhoods' highly accessible urban locations with good access to employment, education and institutional uses and public transport as defined in Table 3.8. Table 3.8 defines 'High-Capacity Public Transport Node or Interchange' as lands within 500 metres walking distance of an existing or planned BusConnects 'Core Bus Corridor'. With respect to the subject site the proposed Kimmage BusConnects route fronts the subject site on Harolds Cross Road. The density of 171uph reflects mid-range at 'City – Urban Neighbourhoods' 'and is therefore consistent with the Compact settlement guidelines, in my opinion.

- 8.3.7. I further note the development has a plot ratio of 1:1.21 with the CDP indicating an indicative plot ratio of 1.0 – 2.5. In relation to site coverage the applicant has a site coverage of 38% with the CDP stating an indicative site coverage of 45-60% for outer employment and residential areas. I am satisfied that the development is in accordance with Development Plan parameters.
- 8.3.8. I am satisfied that the proposed development in this location is in accordance with the Development Plan 2022-2028 which advocates an approach of consolidation and densification in the city and the proposed density complies with Government policy to increase densities on underutilised lands within core urban areas in order to promote consolidation and compact growth, prevent further sprawl and address the challenges of climate change. Appendix 3.4.1 of the Development Plan recognises that increased density and height is a requirement for building the 15-minute city and achieving compact urban growth. Having regard to the location of the site within easy access of Dublin City Centre I am satisfied the that proposed density of 117uph is accessible at this location and is supported by the Development Plan which includes policies which support the attainment of greater residential densities and land-use intensities (Section 4.5.3 – Urban Density (policies SC10, SC11, SC12 and SC13) which also accord with the overarching principles of the NPF as regards compact growth and the promotion of higher densities.

*Visual Amenity*

- 8.3.9. A number of observers raised concerns about visual impact and the proposed building height and note the previous refusal (ABP SHD - 314124-22) on the site which included that the development would be 'visually incongruous' at this location.
- 8.3.10. It is the applicant contention that the revised proposed responds to the concerns raised in the previous refusal as regards the disposition (i.e. the arrangement / orientation) of the buildings on the site and the scale and massing of the apartment blocks. The proposed building heights range from 3 to 7 no. storeys; Block A - 4-6 storeys, Block B - 3-7 storeys over basement, Block C – 3-7 storeys over basement and Block D – 4-5 storeys.
- 8.3.11. The applicant has prepared a variety of drawings, studies and photomontage images to illustrate the development and its surroundings. The TVIA (Townscape and Visual Impact Assessment) submitted states that it is not considered that there will be any significant townscape or visual impacts resulting from the proposed development. In consideration of the visual receptor criteria, it is set out that there is relatively limited material variation in the sensitivity of receptors within the study area and in spite of the 1km extent of the study area, all 16 no. viewpoints selected for assessment are within 300m of the site. The viewpoints were selected owing to their proximity to the site, from a range of angles and contexts, where potential visibility of the proposed development is most likely. I refer the Board to section 1.8.2 *Magnitude of Visual Effect* and accompanying table of the TVIA which outlines each of the 16 viewpoints and potential impacts.
- 8.3.12. The TVIA provides a summary of the visual sensitivity of the selected viewpoints in three distinct categorisations:
- Visual receptors chiefly entailing heritage and amenity features in the locale constitute 6 no. viewpoints (VPs), chiefly from along the Grand Canal (to the north/northeast/ northwest of the site), as well as one receptor from Harold's Cross Park, over 250m south of the site. These are VPs 1, 2, 8, 13, 14 & 15, which are deemed to have a 'Medium' visual sensitivity.
  - Visual receptors with a more tangible urban heritage fabric are deemed to have a 'Medium-low' visual sensitivity. These pertain to VPs 3 (junction of Harold's Cross Road and Grove Road), VP6 (Harold's Cross cottages) & VP16 (Northern side of Harold's Cross Bridge).

- Visual receptors with a lower degree of visual amenity are deemed to have a 'Low' visual sensitivity, These pertain to VPs 4 (Harold's Cross Road near north-east corner of site), VP5 (Harold's Cross Road near south-east corner of site), VP7 (Junction of Harold's Cross Road and Mount Drummond Avenue), VP 9 (Corner of Greenmount Avenue and Limekiln Lane), VP10 (Corner of Greenmount Avenue and Greenmount Lane), VP11 (Northern end of Limekiln Lane) & VP12 (Greenmount Lane).

8.3.13. As regards concerns raised by the observers about elevational treatment and the impact on the existing Harold's Cross Road Streetscape, I refer the Board to VP 2 – VP4. Block A is located fronting Harolds Cross Road, I am satisfied that the design provides for the articulation of the corners, enhanced interaction at streetscape level through the introduction of landscaping, recessed balcony elements and tiered design approach all serve to reduce the visual scale of the building on approach and at street level. Block A also provides for active frontage and façades to Harolds Cross Road, this is a welcome addition in my opinion as the current development turns it back on the streetscape. I am satisfied that Block A adequately addresses the Harolds Cross streetscape.

8.3.14. The taller building elements within the development (i.e., Blocks B & C extend to 7 storeys) address the central internal street and are recessed from the adjoining streetscapes. Blocks B & C are also stepped up from a minimum of 3 storeys in terms of reducing any perceived impacts of scale, mass and bulk on neighbouring properties, given the small infill nature of the site. The orientation of the buildings is along a north/south axis which ensures an even distribution of east and west light to all apartments and eliminates north facing apartments. A strong sense of place, permeability and visual connections are provided within the development by the establishment of a pedestrian only 'internal street' that links Greenmount Lane & Harold's Cross Road. The detailed design of the development proposal has been guided by the 12 criteria of assessment as set out in the Urban Design Manual (2009). I refer the Board to section 4.5 of the Architectural Design Statement

8.3.15. In my opinion the most significant impact is on Greenmount Lane with the introduction of Block D at 4-5 storeys tall. I refer the Board to CGI view Pg. 44 of the Architectural Design Statement. The TVIA notes the built form context of the laneway which is described as having a mix of commercial and low (one or two-storey) residential terraces along it. The TVIA acknowledges that the view from this location will transform

following the construction of the proposed development. In the foreground, the site entrance will be widened to allow for vehicular access into the site, with corresponding parking north of Block D. The TVIA described the magnitude of visual change to be High and of a Positive quality.

- 8.3.16. The introduction of Block D adjoining the existing single storey cottages to the south will significantly increase the scale and bulk relative to the cottages over and above the existing warehouse structure in my opinion. In the distance, the western face of Block B will also rise and present itself. In tandem, both blocks will considerably increase the scale of built intensity in the scene. However, Block D is recessed from the building line of the terrace and does not abut the terrace but is an independent form clearly distinguishing the new insertion, combined with the narrow form of Block D and the fact that the taller alert elements are recessed into the scheme, I am satisfied that the impact on Greenmount Lane is acceptable in an urban context.
- 8.3.17. I am satisfied that the photomontages and contiguous elevations submitted provide sufficient information to understand the potential visual impacts on the receiving environment including the neighbouring residential communities. It is inevitable that the site's development will cause impacts on the landscape character and views from all approaches to the site. However, I am satisfied that the impact was recognised, and the proposal sought to mitigate the impact by setting the buildings back from the boundary, stepping down in height towards the boundary, and landscaping to soften the impact at streetscape level.
- 8.3.18. I am satisfied that the site has capacity to absorb the development proposed and that the visual impact is acceptable in the context of the site and the evolving character of the area.

#### *Building Height*

- 8.3.19. Section 4.5.4 *Increased Height as Part of the Urban Form and Spatial Structure of Dublin* of the Development Plan establishes policy context. The Development Plan does not provide prescriptive height limits but reflects national guidance. Appendix 3 sets out specific guidance regarding the appropriate locations where enhanced density and scale including increased height will be promoted and also performance criteria for the assessment of such development. Appendix 3 also details the different classifications of building height in the city i.e., prevailing height in a given area; locally



higher buildings (which are typically up to 50m); and landmark/tall buildings which are significant features in the cityscape.

- 8.3.20. As set out above Section 4 of Appendix 3 establishes that there is recognised scope for height intensification within proximity of Quality Bus Corridor (QBC). Regarding Outer City (suburbs) the Development Plan set out that outside of the canal ring, in the suburban areas of the city, in accordance with the guidelines, heights of 3 to 4 storeys will be promoted as the minimum. Greater heights will be considered on a case by case basis, having regard in particular to the prevailing site context and character, physical and social infrastructure capacity, public transport capacity and compliance with all of the performance criteria set out in Table 3 of Appendix 3.
- 8.3.21. In terms of national policy, the '*Urban Development and Building Heights Guidelines*' promotes Development Plan policy which supports increased building height and density in locations with good transport accessibility and prohibits blanket numerical limitations on building height. Section 3 of the Guidelines deals with the assessment of individual applications and appeals and states that there is a presumption in favour of buildings of increased height in city cores and urban locations with good public transport accessibility. It sets out broad principles and criteria for the assessment of proposals for buildings taller than prevailing heights.
- 8.3.22. Appendix 3 sets out that there are considered to be three general categories of height in the Dublin Context, of relevance to the subject site is category - Prevailing Height. There is a mix of building heights in the area from the single storey cottages on Greenmount Lane, to 2/3/4 storey residential and office uses. The development will range from 3 – 7 storeys with building heights of up to 24.45m. The development Plan states that this is the most commonly occurring height in any given area and "*Within such areas, there may be amplified height. This is where existing buildings within the streetscape deviate from the prevailing height context, albeit not to a significant extent, such as local pop-up features. Such amplified height can provide visual interest, allow for architectural innovation and contribute to a scheme's legibility*". Therefore, there is policy support for increased height at this location.
- 8.3.23. In terms of national policy, the '*Urban Development and Building Heights Guidelines*' promotes Development Plan policy which supports increased building height and density in locations with good transport accessibility and prohibits blanket numerical

limitations on building height. Section 3 of the Guidelines deals with the assessment of individual applications and appeals and states that there is a presumption in favour of buildings of increased height in city cores and urban locations with good public transport accessibility. It sets out broad principles and criteria for the assessment of proposals for buildings taller than prevailing heights.

- 8.3.24. In this regard I would generally concur that the proposal assists in securing the NPF objectives of focusing development on key urban centres and fulfilling targets supporting the National Strategic Objective to deliver compact growth in our urban centres.
- 8.3.25. SPPR 3 of the Building Height Guidelines sets out that where a planning authority concurs that an application complies with the criteria outlined in section 3.2 of the Guidelines, taking account of the wider strategic and national policy parameters, the planning authority may approve such development even where specific objectives of the relevant development plan may indicate otherwise.
- 8.3.26. In this case, I am satisfied that the proposal is generally in line with Development Plan policy and does not materially contravene any specific building height objectives. Therefore, the proposal does not rely upon SPPR 3. Notwithstanding this, I acknowledge that the proposed development would be significantly higher than the prevailing building height and I consider it appropriate to apply the criteria outlined in Appendix 3 (Table 3) of the Development Plan. The applicant has addressed Table 3 in section 6.9. *Building Height* of the Planning Statement accompanying the planning application.
- 8.3.27. Table 3 of Appendix 3 includes 10 objectives and performance criteria in assessing proposals for enhanced height, density and scale. I have reviewed the scheme relative to Table 3 and I am satisfied that the urban scale and building height proposed reflects a high standard of urban design, architectural quality and placemaking principles and the site has the capacity to accommodate increased building height in line with the provisions of the Development Plan.

**Table 3 - Performance Criteria in Assessing Proposals for Enhanced Height, Density and Scale - Appendix 3 CDP**

	Objective	Assessment
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1.	To promote development with a sense of place and character	<p>The site occupies a prominent location 1.5km from Dublin City Centre and while currently developed to include residential is considered underutilised. The current development turns its back on the streetscape with large boundary walls and railing addressing Harolds Cross Road creating a poor sense of place lacking legibility and indeed permeability.</p> <p>The proposed development has been designed to provide varied and lively facades and combined with the proposed tiered building heights serve to reduce the perceived mass and scale of the blocks. Furthermore, the heights vary across the site and the orientation of the blocks ensure maximum daylight/sunlight allocation, whilst also protecting the existing amenities of neighbouring properties. The setting back of upper levels is proposed as a means to gradually increase heights, whilst respecting the surrounding properties, existing and proposed. The development ranges from 3 no. to 7 no. storeys, with the higher forms positioned at the least sensitive locations throughout the site recessed from the active streetscapes. The material palette reflects the mix of materials reflecting the adjacent developments and provides an appropriate and balanced mix of finishes.</p> <p>The design approach is supported by the TVIA submitted with the application. I refer the Board it section to section commencing 8.3.9 above.</p> <p>The proposed development provides for new public open spaces in this previously private residential site, which will result in new destination spaces in the locality. As such the development will reflect a distinctive and unique sense of character and identity.</p>
2.	To provide appropriate legibility	<p>The proposed development will redefine the building line and streetscape at this prominent urban location and will introduce a new form of height at this location.</p> <p>The proposed development incorporates three adjoining land</p>

		<p>parcels and has been designed to address all streetscape frontage of the site, provides permeability through the site at various points, provides for the required 5% creative space, a creche and shop and through the design and layout will create a distinct sense of place and character especially due to the animation of activity provided along the streetscapes to the east and west, opening up the site for the public to utilise.</p> <p>The scheme will introduce a new form and height to the area. However, I satisfied that the proposed building heights and their stepped arrangements will avoid any abrupt transitions in scale and height from neighbouring residential dwellings, the positioning of the higher building forms internally within the site removed from the active streetscapes has been subject to detailed consideration to ensure that the scheme can be assimilated into the receiving environment.</p>
3.	To provide appropriate continuity and enclosure of streets and spaces	<p>There will be limited vehicular activity within the subject scheme which provides a public realm that prioritises ease of movement for pedestrians and bikes. The priority for access into and through the site and onwards to adjoining lands is afforded to pedestrians and cyclists.</p> <p>The proposed blocks all align to interface with the central access route through the site and resulting connections to the public open space and communal space feeding off the spine route between various blocks creating a sense of enclosure whilst being accessible and overlooked. The applicant notes that the disposition of the blocks is broken up by public and communal open spaces with the north/south axis being the optimum layout in terms of the most preferable orientation for apartment blocks, public open spaces and communal spaces. This allows high levels of sunlight and daylight for all aspects of the development. I would agree. Furthermore, the proposed frontage onto Harold's Cross Road and Greenmount Lane enlivens both streets with activity.</p>

		<p>Appendix 3 table 3 establishes an appropriate street width to building height ratio of 1:1.5 – 1:3. The applicant has provided a street width to building height ratio, as follows:</p> <p>Harolds Cross Road Width: 22.3m, Greenmount Lane width: 8.7m</p> <p>Block A: <math>22.3/20.8 = 1: 0.9</math></p> <p>Block B: <math>22.3/24.5 = 1: 1.1</math></p> <p>Block C: <math>22.3/ 24.2 = 1: 1.1</math></p> <p>Block D: <math>8.7/15.8 = 1: 1.8</math>.</p> <p>In the context of the tight urban grain of the site, in particular, the narrow laneways of Greenmount and Limekiln, the constraints of the site including the wayleaves, I am satisfied that the scheme provides for an appropriate level of enclosure whilst block orientation will provide an appropriate level of sunshine hours to penetrate the site and will enable appropriate thermal environment. Thus, creating continuity and enclosure of streets and spaces.</p> <p>I note that the application was accompanied by an Architectural Design Statement, and that the applicant's DMURS Statement, Quality Audit, and associated drawings address the requirements of DMURS.</p>
4.	To provide well connected, high quality and active public and communal space	<p>The proposed development does not adjoin any public spaces or key thoroughfares; however, it does provide access to a previously private site, including new public open space.</p> <p>The public open space provision is centrally located so as to be in easy walking distance of all dwellings and passively supervised. The open space incorporates children's play raised planters and integrated outdoor seating is provided to ensure that there is something to be enjoyed year-round and while new planting and trees mature over time and invite residents and the public to use the outdoor spaces. Communal open spaces for the development are also centrally located so as to be in easy walking distance of all</p>

		<p>dwellings and passively supervised. The layout of the blocks allows for light penetration into these areas of open space for maximum amenity. Landscaping and boundary treatments will ensure that communal and public open spaces are clearly defined from each other, ensuring a safe and enjoyable environment for the future residents.</p> <p>The Wind Microclimate Modelling study submitted states: “The proposed development does not impact or give rise to negative or critical wind speed profiles at the nearby adjacent roads, or nearby buildings” and all spaces are suitable for their intended use.</p> <p>In addition to the sunlight/daylight assessment, has been completed. It demonstrates that the all spaces receive the necessary 2 hours of sunlight on 21<sup>st</sup> March.</p>
5.	To provide high quality, attractive and useable private spaces	<p>Each dwelling has access to usable private outdoor space, in the form of terraces at ground floor level and balconies on all upper floors, which meets and/ or exceeds the minimum standards for residential dwellings detailed in the Apartment Guidelines. I refer the Board to the submitted HQA accompanying the application.</p> <p>Separation distances and setbacks from surrounding properties have been proposed, thereby ensuring that the existing residences are not overlooked. I refer the Board to section 8.4 below,</p>
6.	To promote mix of use and diversity of activities	<p>The proposed scheme includes non-residential uses including a commercial / retail unit, a creche, and over 650sq.m of community/cultural space.</p> <p>The development includes a mix of unit types / sizes including studio 1, 2 and 3 bed dwellings. The units are designed to be adaptable and flexible in order to suit different stages of the life cycle. In this regard, 107 no. units (59%) out of the total of 181 no. are over 10% minimum areas. 54 no. of these 107 no. units (i.e. 50%) units are capable of being adapted as universal design units.</p>

		<p>The mix of dwelling types proposed will enhance the existing housing stock in the neighbourhood.</p> <p>I am satisfied with the proposed mix of uses and building/dwelling typologies.</p>
7.	To ensure high quality and environmentally sustainable buildings	<p>The proposed development has been designed to be fully compliant with existing Building Regulations and the application is accompanied by a Climate Action and Energy Statement which provides details of the intended sustainable technologies, energy efficiencies and climate resilience.</p> <p>Surface water proposals are set out in the submitted Infrastructure Design Report included in Section 3 details on the site's compliance with surface water policy. The surface water strategy includes SuDS features such as green roofs, permeable paving, tree pits, bioretention areas and landscaped areas.</p> <p>A total of 107 no. of the 181 no. proposed units are dual aspect in their design, which equates to 59% of the overall units, thus exceeding the requirement in this location. A further 10 no. units (6%) are triple aspect units. Section 5.2 of the submitted Daylight and Sunlight Assessment sets out the compensatory design measures for the scheme in relation to the units that could be considered to be underperforming. These measures include large apartment sizes and large private balconies etc. The Daylight and Sunlight Assessment Report indicates that there will be limited impacts on surrounding properties.</p> <p>As outlined in section 8.4 of this report, I note the PA raised no concerns in relation to daylight impacts, I would have no objections regarding ventilation or the dual aspect arrangements/views within the apartments.</p>
8.	To secure sustainable density, intensity at locations of high	<p>The subject site is well served in terms of public transport provision. There is a Quality Bus Corridor (QBC) running along Harold's Cross Road utilised by Dublin Bus routes 16, 16c, 49, 54a and 9. Bus route</p>

	accessibility	<p>numbers 16, 16d, 49, 54a and 9 are highly accessible being less than 30 metres walking distance from the subject site entrance. Bus services will be further enhanced and improved as BusConnects Kimmage route which will run along Harolds Cross Road fronting the site. The closest Green Line Luas interchange to the subject site is located c.1.25km (15min) to the east of the proposed development site, via its Charlemont interchange. A study on the capacity of public transport in the area has been submitted with the application and concludes there is bus and Luas capacity to accommodate additional demand (I refer the Board to section 2.4 of the Traffic and Transport Assessment &amp; Mobility Management Plan submitted).</p> <p>I am satisfied the that proposed density of 117uph is accessible at this location. I refer the Board to section commencing 8.2.10 above.</p>
9.	To protect historic environments from insensitive development	<p>The application was accompanied by an Architectural Heritage Impact Assessment (AHIA) of the proposed development including Protected Structures, in the vicinity, and the proximity of the site to the Grand Canal “Architectural Conservation Area” (ACA). There are no Protected Structures on the subject site.</p> <p>I refer the Board to the foregoing section commencing 8.2.16 and section 8.5 below.</p>
10.	To ensure appropriate management and maintenance	<p>The application was accompanied by:</p> <ul style="list-style-type: none"> <li>• Operational Waste Management Plan</li> <li>• Property Management Strategy Report</li> <li>• Mobility Management Plan (included in the TTA)</li> <li>• Building Lifecycle Report</li> <li>• Landscape Report</li> </ul> <p>I am satisfied noise management, environmental monitoring, construction waste, operational waste management and pest</p>



		control can be addressed through the submission of a final CEMP.
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In summary, I am satisfied that the proposed density and building height in this location is in accordance with Section 4 of Appendix 3 of the Development Plan which acknowledges the scope for height intensification and the provision of higher densities at designated public transport stations and within the catchment areas of major public transport corridors and the overall approach of consolidation and densification in the city. The proposed density and associated height comply with Government policy to increase densities on underutilised lands within core urban areas in order to promote consolidation and compact growth, prevent further sprawl and address the challenges of climate change as reflected in the provisions of the Dublin City Development Plan 2022-2028.

Conclusion

The issues of density, height, scale and massing of the proposal are inter-related. It is the sum of all these parts that, amongst other assessments, determines the appropriateness or otherwise of the proposal.

In assessing the issues of building height/scale, built heritage, and visual amenity, I have been conscious of the transitioning nature of this area. The proposed development is of a greater height and scale than prevailing building height in the area but is also consistent with the emerging height/scale of development and the relevant Development Plan policies. Abrupt transitions in scale and use have been avoided in areas proximate to neighbouring properties. The development has set back much of the development from the surrounding areas, with the tallest elements centrally located within the site. The city skyline is evolving, and the Development Plan notes that although low rise in nature, certain areas of the city have the capacity to accommodate buildings of greater height.

Having regard to the considerations above, I consider that the proposal in principle for increased building height and density at this location is acceptable and in accordance with Objective CS07 of the Development Plan to *Promote Delivery of Residential Development and Compact Growth* and I would generally concur that the proposal assists in securing the NPF objectives of focusing development on key urban centres

and fulfilling targets supporting the National Strategic Objective to deliver compact growth in our urban centres.

Regarding concerns raised about impact on the character of the streetscape, I am satisfied that the design incorporates sufficient variety in scale and form to respond to the scale of adjoining developments and create visual interest in the streetscape.

#### **8.4. Impact on Residential Amenities**

- 8.4.1. A common theme raised in the observations is the potential negative impact on the residential amenities of existing residential properties arising in particular from overlooking, overshadowing, loss of sunlight/daylight and overbearing impacts. Some observers contend that the contiguous elevations presented obscure the scale and height of the tower blocks and conceal the extent of overbearing and overlooking.

##### *Overlooking /Overbearing Impact*

- 8.4.2. Directly to the north of the site addressing Parnell Road is Greenmount Office Park. To the south of the site is also Greenmount Office Park with the Boyne Court Apartments beyond. The main residential properties that are in close proximity to the development is the Boyne Court Apartments to the south, properties No.1 – 6 on Parnell Road, and properties on Greenmount Lane and Lime Kiln Lane.
- 8.4.3. The massing of the development is primarily managed by the creation of four separate blocks of various alignments, sets backs and tiered building height to reduce impacts on adjoining development. The block facades have been divided vertically and elevations are also treated differently at ground level. The primary finishes include a combination of brick finishes and glass visually enhanced and softened by the addition of tiered landscaped roof terraces. I consider that this use of form, materials and landscaping helps to break down the overall scale and massing of the development and avoids a monolithic appearance and add architectural interest of the streetscape.
- 8.4.4. Section 6.1-6.3 of the Architectural Design Statement establishes adjoining site context, volumetric impacts and boundary conditions including separation distances from adjoining development. With regards the general layout and orientation of the proposed residential blocks, there set back from adjacent site boundaries, alignment and positioning as they relate to adjoining development and the stepped approach to building heights to avoid abrupt transition in scale where new buildings are located in

proximity to adjacent properties in the area, addresses perceived overlooking in my opinion and mitigation measures proposed in terms of screening and design address more sensitive areas. In this regard, I note SPPR 1 – *Separation Distance* of the Compact Settlement Guidelines establish that statutory development plans shall not include an objective in respect of minimum separation distances that exceed 16 metres and that in all cases, the obligation will be on the project proposer to demonstrate that residents will enjoy a high standard of amenity and that the proposed development will not have a significant negative impact on the amenity of occupiers of existing residential properties. In any case no proposed block backs directly onto an adjacent residential property. Each block is offset from direct alignment with adjoining residential properties.

- 8.4.5. As regards the residential properties on Parnell Road, Block B has been stepped down to 3/5 storeys and privacy screens on the western elevations, so as to reduce overlooking. As regards the cottages on Greenmount Lane and Limekiln Lane Block D has only minor windows of significance on the gable elevations and as such Block D is not considered to represent any detrimental overlooking. Block C is offset from Limekiln Lane with not direct overlooking. Similarly, regarding Boyne Court apartments to the south of the site. Block C is offset from these apartments and will not directly overlook same. However, the southern gable elevation of Block C will directly overlook the amenity space. This is a communal open space and I agree with the PA that the setback of block C from the southern boundary (6m) with the retention of the existing hedgerow along the southern boundary, as well as the presence of an existing wayleave running through the subject site and onto the adjoining site will provide for an appropriate separation distance.
- 8.4.6. In relation to the potential overbearing impact on the adjoining properties, in particular, Limekiln Lane, Greenmount Lane and Boyne Court apartments, I am satisfied that the block alignment, set back from the site boundary, tiered design approach and location of the taller blocks centrally within the scheme will reduce any overbearing impact. The applicant contends and I would agree that the height and massing of buildings has been carefully considered to ensure an appropriate human scale while creating a degree of enclosure to the public realm.
- 8.4.7. Overall, I consider that the proposed development has been designed to have regard to the residential amenities of adjoining properties and will provide an acceptable built

environment for future residents. On balance I consider that the proposed development in terms of design, height and layout has had regard to the context of the site and maximises its potential while also having regard to the existing building environment and urban form and a degree of overlooking is to be expected in urban areas.

*Overshadowing /Loss of Sunlight*

- 8.4.8. A sunlight analysis was also carried out to existing rear gardens/ private amenity spaces, under the standard BRE test guidelines, all gardens were capable of receiving 2 hrs of direct sunlight on March 21. In total 10 no. spaces were assessed, all of which would experience a 'negligible' level of effect. 100% of these outdoor spaces have met the criteria for effect on sun lighting as set out in the BRE Guidelines. I refer the Board to the results of the Sun On Ground study (SOG) on the neighbouring gardens can be found in section A.3 on page 70 of the Daylight and Sunlight Assessment Report.
- 8.4.9. The report sets out that the impact to the VSC of the neighbouring properties has yielded an acceptable compliance rate of circa 74%, given the target density of the proposed development in an urban area. The impact to the APSH and WPSH can be considered very favourable, with circa 99% and circa 96% of the assessed windows presenting a BRE-compliant result. It is noted, that of the windows that are affected, they are mostly located in commercial buildings. All the neighbouring amenity areas assessed for the SOG showed a BRE-compliant result.
- 8.4.10. Therefore, regarding loss of light, I am satisfied that the blocks have been carefully orientated to maximize daylight amenity for the new apartments while minimizing overshadowing and overbearing on adjoining properties. The Daylight/Sunlight Assessment carried out determined that there was an imperceptible or 'not significant' impact on the majority of the residential properties with the remainder affected only to a 'slight' or 'moderate' level.
- 8.4.11. Overall, the Sunlight/Daylight Analysis determined in line with the BRE Guidelines that there would be no detrimental impact to the sunlight availability on adjoining properties due to the massing and location of the proposed development. Similarly, the amenity sunlight assessment submitted was undertaken as per the BRE Guidelines, with reference to the Shadow diagrams the analysis determined no impact.

8.4.12. I am satisfied that the development complies with the BRE Guidelines with regards to Sunlight and Daylight. I note DCC have not raised concerns in this regard.

*Site Levels*

8.4.13. Concerns were raised by observers that no section drawings of the site changes in levels of the rear gardens of nos. 1-7 Parnell Road were submitted. In the first instance no works are proposed outside of the site boundaries and therefore there will be no level change to these gardens. I have reviewed the existing site layout plan and the proposed site layout and only marginal alterations to site levels are proposed consistent with redeveloping the site for the intended use. I have no concerns in this regard.

*Structural Integrity*

8.4.14. Regarding concerns raised about structural impact on the integrity of adjoining properties. A basement Impact Assessment accompanied the planning application. This included an assessment of adjacent structures. Section 5.2.7 of the Basement Assessment sets out adjacent structures that could be potentially influenced by the basement construction. In addition, a Damage Impact Assessment of the neighbouring structures has been completed. This was based on the classifications given in Table of 6.4 of CIRIA report C760 (formally C580). I refer the Board to Table 5.2 of the BIA report. The results determine the impacts to be negligible to very slight. The Assessment sets out that during construction, the predictions of ground movement based on the analysis should be checked by monitoring of the retaining wall system and if required, adjacent properties and structures. Traditional piled walls can be monitored using inclinometer systems to ensure the lateral wall deflections are as per the design predictions. It is recommended that condition surveys of adjacent existing structures should be carried out before and after the proposed works. Should the Board be minded to grant planning permission I am satisfied that this matter can be addressed by way of condition to include the implementation of the measures set out in the BIA and will adequately address and protect adjoining properties.

*Daylight/Sunlight provisions for Proposed Development*

8.4.15. By way of information for the Board a Daylight and Sunlight Assessment Report accompanied the planning application. The assessment concluded that "In total 181 no. residential units have been assessed, the level of sunlight exposure for 86 no.

units is considered high, 17-19 no. medium, 53 no. have reached the minimum recommendation with 23-25 units below the minimum recommendation. The SE assessment has shown that circa 86% - 87% of the proposed units meet the criteria for sunlight exposure as set out in the BRE Guidelines. 11 no. of the 15 no. proposed amenity areas are BRE-compliant for the SOG. Compensatory design solutions have been provided where rooms do not achieve the daylight provision targets as set out in the BRE Guidelines. In accordance with Section 3.2 of the Urban Development and Building Height Guidelines (2018), a full list of all units / rooms that do not achieve the recommended level of daylight and sunlight with regards to BRE 209 and the compensatory design solution provided are set out on page 22 of the submitted report. In my opinion, the proposed scheme provides a good level of compliance for a scheme of this size and increasing density, when having regard to the range of compensatory design measures and the planning policy requirements, It is my view that this approach is acceptable.

### Conclusion

Sufficient information has been provided with the application and appeal to allow a comprehensive and thorough assessment of the impacts of the proposals on neighbouring residential amenities, as well as the wider area. I am satisfied that the proposed development would not result in excessive overshadowing or overlooking of neighbouring properties and would not have excessively overbearing impacts when viewed from neighbouring properties, as well as the public realm. The proposed development is an infill site and there is adequate separation distance between the site and the residential development to the north and east. A degree of overlooking is acceptable in an urban context.

I accept that the development will change the outlook for properties adjoining the site. However, the proposed height, scale and design of the proposed development has been carefully considered to ensure that this higher density development can be accommodated on the subject site, without adversely impacting on the character or residential amenity of the area in terms of overlook and overshadowing. I am satisfied that any overbearing concerns are mitigated by measures embedded in the design. I am further satisfied that the scheme provides an appropriate level of amenity for future residents.

## **8.5. Impact on the character of the Area and surrounding Built Heritage**

- 8.5.1. The observers raised concerns that the development will have a negative impact on local built heritage and the Grand Canal Conservation Area.
- 8.5.2. In the first instance the site lies outside of the Grand Canal Conservation Area (located to the north of the site) and there are no Protected Structures on the site.
- 8.5.3. I refer the Board to the Architectural Heritage Impact Assessment submitted with the planning application in relation to surrounding Protected Structures, the cottages on or adjacent to Greenmount Lane to the south and the west facing houses on Harold's Cross Road. The Grand Canal Conservation Area is also considered within the report. I have addressed in section commencing 8.2.16 above the demolition of the 1-3 Clare Villas.
- 8.5.4. Regarding Protected Structures 1-9A Parnell Road, it is argued that the proposed development has considered the neighbouring Protected Structures in the vicinity along Parnell Road in the scheme layout. There is a green/planted buffer along the northern boundary, which results in the building forms being set back from this boundary, thus ensuring that the development is appropriately screened as viewed from the Protected Structures on Parnell Road and from the Grand Canal. The heights of the proposed buildings have been carefully selected and positioned internal to the site, away from the neighbouring Protected Structures in order to reduce any perceived impacts. Whilst I accept that the development will be visible in the background beyond the Protected Structures, I am satisfied that the proposed development is sufficiently removed from the terrace of houses 1-9A Parnell Road and by virtue of the contemporary design and layout does not detract from the distinct character of the terrace and is in accordance with Policy Objective BHA2 of the Development Plan.
- 8.5.5. Some observers set out that it is essential that boundary walls are retained following the proposed demolition of 1-3 Clare Villas. In this regard, I note that Appendix C of the AHIA provides a method statement for the protection of the shared boundary walling with the properties on Parnell Road and adjoining access lane and the re-use of demolished material, where applicable (see also drawing no. 105 – Boundary Treatment Plan)

- 8.5.6. Regarding any negative impact on the Grand Canal, the AHIA notes that the character of the Canal is not consistent; 'it is constantly changing as one progresses along It'. Of note the Grand Canal is not a designated ACA but a Red-Hatched Conservation Area as set out in the Development Plan. Section 11.5.3 *Built Heritage Assets of the City* of the Plan states that '*red-lined Conservation Areas are extensive throughout the city. Whilst these areas do not have a statutory basis in the same manner as protected structures or ACAs, they are recognised as areas that have conservation merit and importance and warrant protection through zoning and policy application*'. The AHIA determined the overall impact of the proposed development upon the Conservation Area as slight, but not a negative one. I would agree and concur that the only constant in the Conservation Area is the presence of water, i.e. the canal and, in places, the added interest of its locks, the character of the wider areas in the vicinity of the Canal reflects varying architectural styles, forms and height. I am satisfied that the development will not have a determinantal impact of the character of the Red Hatched Conservation Area of the Grand Canal.
- 8.5.7. The AHIA has considered all relevant structures of heritage within the vicinity of the site including the unique character of the groups of cottages on/adjacent Greenmount Lane, Hatter's Lane and Limekiln Lane and adjoining industrial buildings and buildings of architectural merit albeit not on the RPS or NIAH. The AHIA concludes that by reason of design and layout and separation distances that the impact of the proposed development will be zero – neutral. I would agree.
- 8.5.8. In summary, there will be a slight negative impact on those Protected Structures facing the canal, resulting from the visibility of the new buildings over these structures but I do not consider this this impact to be significantly determinantal. No other negative impacts are cited within the AHIA. Regarding references made in the observations to the impact of the wider historical context of the area, I note the development is taking place in the context of an evolving city scape and it is in this context that the development must be considered. I am satisfied that the design of the proposed development has taken into account the sensitive status of the neighbouring Protected Structures and Grand Canal Conservation Area and the contemporary modern design proposed and will contrast effectively with the traditional buildings in the vicinity.

*Archaeology*



- 8.5.9. The study area does not contain any sites or monuments with a designated zone of notification. In addition, no Record of Monuments and Places (RMP) files exist within the study area. A zone of Archaeological Interest is indicated to the west of the site but does not encompass the site itself. The Archaeological Assessment submitted with the planning application sets out mitigation measures which recommend that that all works within the study area should be subject to archaeological monitoring. I note the City Archaeologist has no objection subject to archaeological testing on site, I am satisfied that this can be conditioned should the Board be minded to grant planning permission.

### Conclusion

The proposal diverts from the established townscape character by providing a high-density neighbourhood in an historically low-density urban environment, this is an unavoidable and not undesirable outcome to comply with compact growth policies of national, regional and local planning policy. However, I am satisfied that the proposal will not negatively impact on the built heritage or cultural heritage of the area and will not reduce the conservation merit of the Grand Canal Conservation Area or adjacent Protected Structures and the tiered height of the development will reduce townscape and visual impacts.

## **8.6. Landscape Strategy - Permeability, Trees & Biodiversity**

### *Open Space*

- 8.6.1. The design provides for three **public open spaces** in the development. The first area is the land located between Block A and B, the second area is between Block C and D and the third area is the land located to the west of Block B. In terms of quantum, c.1, 355sq.m of public open space is catered for, in a variety of spaces of varying size and function. This is in addition to communal open space provision, the total quantum of public open space provided on the site equates to 13% (Section 15.8.6 of the CDP requires a 10% open space provision) of the site area. The open spaces are located proximate to the proposed buildings, thus affording passive supervision, maximum utilisation and buffers from the neighbouring buildings on this infill site. A Landscape Report has been submitted setting out details of the design and function of the proposed open spaces, along with relevant planting, play and material detail. I have no concerns in this regard.

I note the PA in response to the appeal set out that a contribution condition lieu of public open space provision be attached to any grant of permission. Regarding Public Open Space provision, table 15-4 of the Development Plan outlines that 10% public open space is required on Z1 zoned lands. As set out above the layout provides for 13% public open space. A contribution in lieu of public open space is therefore not justified, in my opinion.

8.6.2. **Communal** residential amenity areas and open spaces are provided for in the form of communal roof gardens and communal rooms associated with the individual buildings. In total, 1,630m<sup>2</sup> of communal open space is provided to cater for 181 no. apartments and studios. Block A accommodates a communal amenity room at 5th floor @ 21m<sup>2</sup> of floor space, while Block B also accommodates a communal amenity room at 6th floor catering @ 56m<sup>2</sup> providing an additional 77m<sup>2</sup> of communal amenity space. In accordance with the standards of the Apartment Guidelines, approx. 1,070m<sup>2</sup> of communal open space is required. I am satisfied that the communal open space is in accordance with Section 15.9.8 *Communal Amenity Space* of the CDP and would provide a reasonable level of amenity for future residents.

8.6.3. **Private open spaces** for the proposed dwellings are provided as terraces at ground floor level of each block and balconies at all upper levels. Of note, terraces that interface with the public/communal amenity areas have adequate buffers to protect privacy and enhance residential amenity.

#### *Permeability*

8.6.4. The proposed site layout provides for direct connectivity and permeability from Greenmount Lane to the west, Limekiln Lane to the south-west, and Harold's Cross Road to the east. The proposed scheme has been designed to open up the subject lands to pedestrian and cyclist permeability. Limited vehicular traffic will be permitted to access the site from Greenmount Lane, with no through traffic allowed from either Greenmount Lane or the Harold's Cross Road. The primary vehicular access into the site will be from Harold's Cross Road via the existing entrance into the existing development. The access via Harold's Cross Road allows for direct accessibility to the proposed retail unit and creche on site.

8.6.5. Some observers contend that there should be no connectivity/permeability provided on Limekiln Lane with particular concerns road as regards access to the creche.

Limekiln lane is currently a cul de sac terminating at an industrial building. In my opinion, the opening of a pedestrian link at this location will enhance the safety and security at this location and combined with the wider scheme will provide significant improvements in respect to local permeability and connectivity which will be of benefit to the wider community. Any pedestrian movements associated with the crèche will be within daytime hours and will not in my opinion have a significant determinantal impact on established residential amenity. The Transportation Division note that the useable width of the lane for access is in effect substantially reduced by informal on-street car parking along the eastern side, opposite the existing cottages however it is noted that having regard to the low number of mews dwellings on this lane, the proposed pedestrian/cyclist access is acceptable and is noted as conferring benefits in respect of permeability and connectivity within the area.

- 8.6.6. I note the Transportation Division have set out that they would like to see a pedestrian link to be provided to improve the overall permeability from Parnell Road. It is proposed to distinguish any access from this portion of the site with the demolition of 1-3 Clare Villas. Whilst I note the benefits of increased permeability, I consider in this instance any pedestrian access at this location would have detrimental impacts on no's 1-3 Parnell Road given the existing shared access arrangements and the domestic and semi-private context currently enjoyed by these properties. Therefore, I do not consider it appropriate to provide access at this location nor do I think it necessary given the permeability proposals provided for already.
- 8.6.7. Overall, the new entrances and routes across the site would result in a substantial improvement in permeability in the area, in accordance with the principles of the '15-minute city' concept, delivery of compact growth and the creation of sustainable neighbourhoods.

#### *Trees & Biodiversity*

- 8.6.8. A number of observers raised concerns about the loss of trees and associated biodiversity on site. A tree survey report has been submitted and indicated the presence of 78 trees, shrubs and hedges within the site area. It is proposed to fell 63 trees equating to 80% of the overall population. Existing trees range from being in poor to good condition, most of which are early semi-mature in age. The trees would be considered as Parkland and ornamental trees, some of which are native, with species

such as Ash, Birch, Cherry, Sycamore, Lime, Norway Maple, Robinia and Rowan being present. The trees are being removed to facilitate the development. Of note, Block C and the underground basement have been moved northwards away from the southern boundary, whereby the setback is now 5.4m to allow for the retention of all existing boundary trees and vegetation along the southern boundary. This is a welcome approach having regards to the proximity to adjoining residential development.

- 8.6.9. Regarding the overall loss of trees while this is regrettable, I note the early semi-mature age of the trees and I am satisfied that their loss is mitigated by the proposal to run a linear habitat along the northern boundary, from the Play Area in the western half of the site to the 'Wildflower Garden' and 'Urban Garden' in the eastern half of the site. The space will act as a biodiversity/green infrastructure link through the site. There are a number of existing trees to be retained and incorporated into the landscape scheme along this boundary, and these will be enhanced by proposed native trees and understorey planting. Furthermore, I agree with the applicant that the proposed woodland creates a visually stimulating link through the site and provides screening and security and will create a strong ecological network that will contribute to local biodiversity within the site and the wider landscape.

#### *Ecological Impact Assessment*

- 8.6.10. Reference was made in the observations to the impact of the development on biodiversity including the biodiversity of the Grand Canal. An Ecological Impact Assessment was submitted with the application. The EIA notes that the proposed development will result in habitat loss within the proposed development boundary. Noting the relatively small areas of habitat lost and its nature, and the proposed landscape plans, this will not be significant at any geographic scale.
- 8.6.11. It is set out that the proposed development does not have the potential to affect habitats indirectly as a result of Third schedule non-native invasive species impacts due to lack of Third schedule non-native invasive species within the site. The proposed development does not have the potential to result in significant negative effects on fauna at a local or any other geographic level including the Grand Canal. A range of common bird species were observed in the proposed development site and surrounding areas during surveys conducted in June 2022. No signs of Brent geese

(including sightings of birds, presence of feathers, droppings, or grazing signs) were noted within the proposed development lands in 2020 or 2022, and they are considered to be of very low suitability for wintering birds. Two species namely the herring gull and Mediterranean gull were recorded within the proposed development site. Due to the presence of suitable habitat within and directly adjacent to the proposed development site, the local wintering bird populations are both considered to be of Local Importance (Higher Value).

8.6.12. A range of mitigation measures have been proposed (section 6 of EclA), in addition to the environmental control measures that have been incorporated into the design of the proposed development. A suitable condition requiring all of the mitigation measures be implemented in full in accordance with best practice, will result in effective control measures to protect biodiversity and the receiving environment, in my opinion.

8.6.13. I note two bat activity surveys (2020 and 2022) and mammal surveys were undertaken within the proposed development site. No signs of bats were noted from internal and/or external inspections of the residential buildings and warehouse within the lands. In any case the buildings within the lands are considered to be of low suitability for roosting bats. Furthermore, no bats were observed exiting from or returning to any of the buildings within the lands during pre-dawn presence/absence surveys. However, across the wider site, three species of bat, soprano pipistrelle *Pipistrellus pygmaeus*, common pipistrelle *Pipistrellus pipistrellus* and Leisler's bat *Nyctalus leisleri* were recorded during presence/absence surveys in 2020. In 2022, common pipistrelle, Leisler's bat and one unidentified pipistrelle species were recorded during the presence/absence surveys. Activity levels were generally low within the proposed development lands. Section 6.4 of the EIA address the potential impacts on bats and section 6.4.2 sets out mitigation measures to control and reduce light spillage. Subject to adherence to same and relatively small number of bats recorded/observed I am satisfied that the development will not represent a significant detrimental impact on bats.

### Conclusion

I am satisfied that the proposed development will foster a new community in an urban quarter through its mix of unit types and sizes; provision of residential facilities; high quality architectural design and landscaped settlement which also provides for

connectivity and permeability into neighboring areas on the west, south and east of the site. It is put forward that the redevelopment of the subject site, to provide for an increase in density, is considered reasonable given current planning policy for the intensification of sites within urban area so as to provide for a more compact sustainable city.

The proposed landscape incorporates measures to enhance biodiversity in an urban setting, including planting native tree species, coupled with plants selected from a list of pollinator friendly species. The planting is intended to support the aims of the council's 'All Ireland Pollinator Plan 2021-2025' and the application includes a Biodiversity Enhancement Plan. I am of the view that this approach is acceptable in the context of this urban site and reflective of the principles of biodiversity net gain.

## **8.7. Flooding**

### *Refusal Reason No .1 - Flooding*

8.7.1. Refusal reason no. 1 of the DCC notification stipulated that *-Having regard to the location of the subject site largely within the Poddle River Flood Zone B, as identified in the Dublin City Development Plan 2022-2028 Strategic Flood Risk Assessment (SFRA) and in the absence of the Poddle River Flood Alleviation Scheme being implemented, taking into consideration the proposal for residential development which is classified as Highly Vulnerable development under the DEHLG/OPW Guidelines on the Planning Process and Flood Risk Management, the applicant has failed to demonstrate that the development meets the applicable criteria for the Justification Test for Development Management as required by the DEHLG/OPW Guidelines and the Dublin City Development Plan 2022-2028. Furthermore, the proposal for raising the ground levels on the site does not appear to consider the criteria in accordance with Section 4.10.2 of the Dublin City Development Plan 2022-2028 SFRA. The development would therefore be contrary to the policies set out in Dublin City Development Plan 2022-2028, specifically Policy SI14 (Strategic Flood Risk Assessment) and SI 15 (Site-Specific Flood Risk Assessment) which seek to ensure development complies fully with the recommendations of the SFRA and the DEHLG/OPW Guidelines and as such would be contrary to the proper planning and sustainable development of the area.*

8.7.2. I note also the concerns raised by the observers as regards flooding and the impact

of the 2011 flood event.

- 8.7.3. In their grounds of appeal, the first party argue that the Poddle Flood Alleviation Scheme works commenced as of February 2024. The appeal refers to technical note (dated 26<sup>th</sup> March 2024) from DBFL noting a review of Poddle FAS website sets that works have commenced. The response included an outline schedule of works following consultation with the South Dublin County Council project Engineer for the scheme including the programme for full completion of scheme in Q1 2027. The first party argue that to refuse on this basis is unwarranted and the delivery of the proposed development will take place in tandem with the flood alleviation programme. The grounds of appeal further set out that the timeline for intended occupation of the development is Q1/Q2 2028.
- 8.7.4. I have reviewed [www.poddlefas.ie](http://www.poddlefas.ie) (15/5/2024) and I note the website states that works will commence from February 6<sup>th</sup> (2024) with the installation of the site compound on the Limekiln Road side of Tymon Park along with the required removal of trees and vegetation in Tymon Park and that *“Construction on the elements of the scheme will then commence in April, with the initial stage of works being concentrated on the Tymon Park elements. This will consist of the engineered embankments, the flow control structure and the Integrated Constructed Wetlands. **By commencing on these elements of the scheme it will provide essential storage when works commence downstream on the other elements”**.*
- 8.7.5. I note the applicant has completed a SSFRA which identified a large portion of the site in Flood Zone B accordingly a Justification Test is provided. I refer the Board to Section 5.7 of the SSFRA accompanying the application. The Justification Test asserts that the FFL's are set at 22.10mAOD for the apartment blocks. This provides an additional 100mm above the 0.1% AEP flood level and is consistent with Table 4-2 *Recommended Minimum Finished Floor Levels* which sets out in Fluvial, undefended scenarios - 1% AEP flood + climate change + 300mm freeboard. Proposed floor levels are also set at between 400mm to 600mm higher than the existing FFL's. As per the DCC SFRA 2022 – 2028 DDL's have been raised a minimum of 300mm above existing road levels/pavement heights to ensure flow paths do not become obstructed and ensure appropriate standards of flood resilient construction. I refer the Board also to Residual Risks in section 5.8 and Mitigation Measures in section 5.9 of the SSFRA.

8.7.6. Regarding compliance with Section 4.10.2 of the Dublin City Development Plan 2022-2028 SFRA which notes that modifying ground levels to raise land above the design flood level is a very effective way of reducing flood risk to the site there are a number of criteria which must all be met before this is considered a valid approach. Appendix C of the appeal response addresses section 4.10.2.

8.7.7. Compliance with Section 4.10.2 of Section 7 of CDP

Development Plan Criteria	Compliance
Development at the site must have been justified through this SFRA based on the existing (unmodified) ground levels	<p>Appendix B of the FRA 2022-2028 Area: 15. Poddle: Grand Canal to Sundrive Road states - <b><i>No new development should be allowed in these areas unless they are defended except for extensions and small infill provided the number of people at flood risk is not increased. Residential development (mainly infill) with community and a small amount of commercial would be a natural extension of existing development in this area.</i></b> However, any development could reasonably be accommodated within the extents of Flood Zone C and should not need to extend into Flood Zone A or B unless defended. Some development may require to await future flood defence works on the River Poddle.</p> <p>Owing to that fact the works have commenced of the Poddle FAS and are due to be completed prior to the occupation of the development. I am satisfied that subject to a condition stipulating no occupation until the flood alleviation works are complete the proposed development can be developed in tandem with the Poddle FAS.</p>
The FRA should establish the function provided by the floodplain (either conveyance or static storage).	<p>Primary function provided by the floodplain is conveyance.</p> <p>In the case of the development, it is proposed that during a storm event water will be directed towards the basement and pumped back into the surface water network once the storm event has passed.</p> <p>An advanced warning system will be in place to evacuate the</p>



	<p>basement. This is consistent with 3. <i>Specific Flood Risk Assessment</i> of Appendix B of the FRA 2022-2028 Area: 15.</p> <p>Poddle: Grand Canal to Sundrive Road regarding reference to development proposals for sites in Greenmount Industrial Estate and surrounding area encompassed by Flood Zones A and B.</p>
Where conveyance is a prime function then a hydraulic model will be required to show the impact of the alteration of the floodplain profile.	<p>I refer the Board to Appendix A of the appeal submission for Overland Flow Drawing and Appendix B for the Compensatory Storage drawing.</p> <p>Flood storage volume lost (allowing for add, 20%) is c. 4500m<sup>3</sup>. Volume provided is c. 6700m<sup>3</sup></p>
Where the floodplain provides static storage, compensatory storage should be provided on a level for level basis to balance the total volume that will be lost through infilling	Compensatory storage required to meet CDP – 4500m <sup>3</sup> , proposed 6700m <sup>3</sup> .
The land being given over to compensatory storage must be land which does not flood in the 1% AEP fluvial event (i.e. within Flood Zone B or C).	Compensatory storage is proposed in the basement and will be greater than the flood storage lost.
The provision of the compensatory storage should be in close proximity to the area that storage is being lost from.	Compensatory storage provided on site in the basement.

The land proposed to provide the compensatory storage area must be within the ownership / control of the developer.	Basement located within the development site.
The compensatory storage area should be constructed before land is raised to facilitate development.	The basement will be constructed prior to the construction of the apartments and before land is raised to facilitate the apartments.
Compensatory storage is generally not required for loss of floodplain in a tidal scenario, or in locations behind defences.	A tidal scenario does not apply. The majority of the site is identified in Flood Zone B.  The intended occupation date for the development is after the completion of the Poodle Flood Alleviation Scheme.

- 8.7.8. It is the applicant's contention that the site passed the justification test as part of the DCC SFRA (2022-2028) – Area 15 Poodle: Grand Canal to Sundrive Road. In this regard I draw the Bords attention to the report from the Drainage Division of DCC which notes that the sites 'passes Part 1 and 2 of the Justification Test for Development Plans but Part 3 (SFRA) has found that new development should be located in Flood Zone C and avoid Zone A and B'. It is set out that the site is currently undefended, and the flood risk status will remain until such time as the Poodle Flood Alleviation Scheme is constructed. The proposed development is not considered a small-scale infill development and the introduction of additional people into a flood plain is contrary to the DEHLG/OPW Guidelines on the Planning Process and Flood Risk Management.
- 8.7.9. I note also in response to the appeal the Drainage Division set out that the proposal to deliberately flood the basement car park during storm events is not appropriate because the area would be used by residents, and this could pose a serious safety risk. As set out above an advanced warning system will be in place to evacuate the basement. I am satisfied that this acceptable and any advanced warning will be implemented as part of the management of the development.

- 8.7.10. Having regard to Appendix B of the FRA 2022-2028 Area: 15. Poddle: Grand Canal to Sundrive Road as set out above and with respect to the concerns of the Drainage department regarding the scale of the development and the increase in population generated by the development in the absence of the Poddle FAS, I accept that the development will result in increased density at this location, but the principle of residential development is already established on the site and the development will not represent a new type of development and does in fact represents infill development.
- 8.7.11. I am of the view that a pragmatic approach must be taken to the consideration of permitting the development in the absence of the fully completed Poddle Flood Alleviation Scheme.
- 8.7.12. I am satisfied that an adequately sized attenuation facility to cater for retained flood volumes is provided. This is designed for the 1 in 100-year storm plus 20% allowance for climate change. FFL's are significantly higher (>4m) above the predicted 100 year flood levels from the CFRAM Flood maps. In the event of the 0.1% flood event occurring flood waters will be directed to the basement ensuring that flood risk is not increased elsewhere during the 0.1% AEP Event. Once the storm event has passed these flood waters will be pumped from the basement and will be directed through the subject sites storm water system to the outfall point which ultimately discharges to the Ringsend WWTP via a combined trunk sewer and surface water network capacity is designed in accordance with GDSDS recommendations and DCC requirements and incorporate 20% climate change and SUD's measures. Subject to a condition stipulating that the development is not occupied until the Poddle FAS is complete, I am satisfied that the development is acceptable form a flood risk perspective. I note the first party have stated that they are happy to accept a condition in this regard should the Board by minded to grant planning permission.
- 8.7.13. The Board is referred to the flood mitigation measures proposed in the interim in advance of the Poddle Flood Alleviation Scheme being completed, which the first party note was previously accepted as part of the SHD application. I refer the Board to DBFL Consulting Engineers Report - Appendix to the Appeal (Pg. 3). Furthermore, I note the SSFRA states that the 'existing overland flow routes associated with the culvert to the west of the subject site, which passes through Greenmount Industrial estate, are not impacted by the proposed scheme' and the Hydrological & Hydrogeological

Qualitative Risk Assessment submitted sets out the 'during construction and operation phases there is no direct source pathway linkage between the proposed development site and open waters'.

- 8.7.14. In summary, the proposed development will not increase run-off rate when compared with the existing site and satisfies the requirement of the SFRA to reduce flooding and improve water quality. The development passes the Justification Test in accordance with Box 5.1 of Flood Risk Mangt. Guidelines and the proposed development is deemed appropriate to be located within Flood Zone B on the basis that the mitigation measures stipulated within justification are met. I am satisfied that the development is acceptable.

### Conclusion

In summary, having regard to the fact the works have commenced of the Poodle Flood Alleviation Scheme with the anticipated timeline for completion Q1 of 2027 and the expected time for completion of the development is Q1/Q2 2028, I am satisfied that the development works can take place in tandem and in the event the Poodle FAS is delayed a suitable condition stipulating no occupation of the development until such time as the Poodle FAS is complete will control the future occupation of the scheme and address concerns raised as regards the capacity implications generated by the increased density in the absence of the Poodle FAS being complete.

I am satisfied that the principle of residential development is already established at this location and any increase on population generated over and above the existing residential capacity can be considered a 'minor increase' and in accordance with Strategic Flood Risk Assessment (SFRA) prepared in accordance with the Development Plan and therefore in accordance with Policy SI14 (Strategic Flood Risk Assessment) and SI 15 (Site-Specific Flood Risk Assessment as they relate to compliance with the Strategic Flood Risk Assessment (SFRA).

## **8.8. Water Service Infrastructure**

### *Wastewater*

- 8.8.1. The general **foul sewer strategy** for the development will be to discharge by gravity to the existing 600mm diameter combined sewer which enters the site from the Harold's Cross Road and discharges to the existing trunk sewer in Parnell Road. Irish

Water in their Confirmation of Feasibility Letter, dated 27th of April 2020, attached in Appendix B of the submitted Infrastructure Design Report have confirmed capacity is available to serve the proposed development subject to the applicant entering into a connection agreement.

Within the site foul sewer networks comprising 225mm and 150mm diameter sewers would serve the proposed development. Individual houses will connect to the 150/225mm diameter foul sewer via individual 100mm drains or per the Irish Water Code of Practice. All foul drainage layouts and proposals have been designed in accordance with the Irish Water Code of Practice for Wastewater Infrastructure including pipe diameter, minimum gradients, layouts etc.

#### *Water*

- 8.8.2. It is proposed to connect to the existing 225mm **watermain**, to the east of the subject site and also the existing 100mm watermain, located along the western boundary in Greenmount Lane. The watermain layout within subject site consists of a primary 160mm diameter loop HDPE main with service connection to each apartment block, creche and retail unit provided.

#### *Surface Water*

- 8.8.3. The proposed surface water drainage system will collect storm-water run-off from the proposed residential development via a traditional pipework and manhole system laid within the proposed street network. Run-off from hard standing areas will be collected via collectors. Green roof technology will be incorporated into the development which will reduce the surface run-off from the roof while also improving the quality of water. Sustainable Urban Drainage Systems (SUDS) will be incorporated to reduce run-off volumes and improve run-off water quality, Surface water from the development will discharge via an attenuated outlet to the existing 600mm diameter public Dublin City Council combined sewer which traverses the subject site. This in turn discharges to the existing 3660mm trunk sewer located in Parnell Road and runs parallel to the Grand Canal. This 3660mm trunk main ultimately discharges to the Ringsend WWTP to the east.
- 8.8.4. I am satisfied that the water services infrastructure is acceptable, I note the PA raised no concerns in this regard. The submission by Uisce Eireann also raised no objection to the water supply and foul drainage proposals. I further note that the Hydrological

and Hydrogeological Assessment identified no hazards to development on the site. I consider the proposed site services and surface water proposals satisfactory in this regard.

## **8.9. Traffic and Transportation**

### Refusal Reason No. 2 – Access Arrangements

- 8.9.1. Refusal reason no. 2 of the DCC notification stipulated that – *“Due to the reliance on carrying out of works to the access which are outside their control, the applicant has failed to clearly demonstrate that safe access and egress to the proposed development can be provided so as not to negatively impact the free flow of traffic on the adjacent public road and within the site. As such, the proposed development would endanger public safety by reason of a traffic hazard and would therefore be contrary to the proper planning and sustainable development of the area”*.
- 8.9.2. In the first party appeal it is set out that the applicant has had the site surveyed and can confirm that they have a right to pass over the main entrance into the site from the Harold's Cross Road. Reference is made to the map submitted and prepared by Land Surveys which confirms (a) the lands in the ownership of the applicant and (b) the existing right of way that the applicant has a right of way/right of passage over, and which the applicant has utilised for the past thirty years, i.e., the Harolds Cross Court development. I note no Land Registry documentation has been submitted and the survey drawings prepared by the applicants' consultants do not demonstrate legal ownership or right to traverse.
- 8.9.3. In response to the appeal the Transportation Planning Division note that the first party confirms that there is an existing right of way over the access road from Harold's Cross Road which allows the applicant to access the site. However, it is noted that the material re-asserts that the road is not in the ownership of the applicant and no letter of consent from the owner of the access road has been provided. It is set out that the while the principle of works are acceptable this would only be subject to the delivery of works on an access road which is not on the ownership of the applicant.
- 8.9.4. Section 5.13 of the Development Management Guidelines sets out that the planning system is not designed as a mechanism for resolving disputes about title to land or rights over land and that these are ultimately matters for resolution in the Courts. Section 5.13 states that where 'a person asserts that he/she is the owner of the land

or structure in question, and there is nothing to cast doubt on the bona fides of that assertion the planning authority is not required to inquire further into the matter. Only where it is clear from the response that the applicant does not have sufficient legal interest should permission be refused on that basis'. In this instance the PA did not request further information from the applicant as regards ownership.

- 8.9.5. Section 5.13 goes on to state that 'if notwithstanding the further information, some doubt still remains, the planning authority may decide to grant permission'. It is the applicant's contention that they have a legal right to access the site via Harolds Cross Road, in this respect it is of note that the site is currently accessed via Harolds Cross Road, and this would appear to have been the case since the original duplex units were constructed. Therefore, there is an established long-term access to the development site at this location and it is unclear from the response the status of the applicant's right to traverse in so far as the applicant claims to have utilised this access arrangement for 30 years. I further note that this is not in dispute. On this basis I am satisfied that planning permission can be granted. However, a grant of permission is subject to the provisions of section 34(13) of the Act. In other words, the developer must be certain under civil law that he/she has all rights in the land to execute the grant of permission'.

#### *Secondary Access*

- 8.9.6. A second minor vehicular access is provided off Greenmount Lane. A number of observers have raised concerns as regards the capacity of Greenmount Lane owing to its narrow width. Whilst I note the narrow width of the lane, the proposed access gives access to the 3-no. surface car parking spaces and 4 no. car sharing spaces only. This access will only serve light vehicles, as all loading activities will be accomplished using the main site access. The link between the vehicular access and Greenmount Lane will consist of an "all movement" priority junction. Section 8.2 of the TTA establishes minimal impact on the local road network. I refer the Board to table 8.1 *Network Impact through Key Junctions (2025 DS, 2030 DS, 2040 DS)*. AM Peak and PM Peak traffic upon full completion in 2023 is identified at 2.7% and 3.4% increase only. I consider this acceptable in an urban context.
- 8.9.7. As set out above pedestrians and cyclists can access the subject site via the "Public Link Street" that runs in an east - west direction, from Harold's Cross Road to

Greenmount Lane. This is a publicly accessible pedestrian and cyclist link providing permeability from the different blocks and connectivity to public transport and other amenities. The application was accompanied by a Traffic and Transport Assessment and Mobility Management Plan.

- 8.9.8. I note the DCC Transportation Planning Dept. raised no concerns as regards access and egress arrangements proposed in terms of traffic safety.

*Car Parking /Public Transport*

- 8.9.9. Appendix 5 *Transport and Mobility: Technical Requirements* of the Development Plan establishes that the site is located in Parking Zone 2. Appendix 5 Table 2. This requires a minimum 1no. long term cycle parking space per bedroom for apartments and a maximum number of 1 no. car parking spaces per unit. Additional spaces are required for the other uses proposed on site. Visitor cycle parking provision is also required.

- 8.9.10. Section 4.0 goes on the state that a relaxation of maximum car parking standards will be considered in Zone 1 and Zone 2 for any site located within a highly accessible location. Applicants must set out a clear case satisfactorily demonstrating a reduction of parking need for the development based on the fa number of criteria including:

- Locational suitability and advantages of the site.
- Proximity to High Frequency Public Transport services (10 minutes' walk).
- Walking and cycling accessibility/permeability and any improvement to same.
- The range of services and sources of employment available within walking distance of the development.
- Availability of shared mobility.
- Impact on the amenities of surrounding properties or areas including overspill parking.
- Impact on traffic safety including obstruction of other road users.
- Robustness of Mobility Management Plan to support the development

- 8.9.11. A Parking Management Strategy accompanied the application. Car parking is to be provided in the form of surface and basement level car parking (63 no. spaces in total). Blocks B & C are located above the proposed basement, which accommodates 56 no. car parking spaces (including EV & mobility impaired parking spaces), 4 no.



motorcycle spaces and 444 no. bicycle parking spaces (including 10 no. cargo bike spaces & 60 no. electric bike spaces). There are an additional 7 no. surface level car parking spaces proposed (i.e. 4 no. club car spaces, 1 no. EV space & 2 no. mobility impaired spaces), and 60 no. surface bicycle parking spaces. Bicycle parking is also accommodated at ground floor level within Blocks A, B, C & D (120 no. spaces total).

8.9.12. As set out above the site is within proximity to a high frequency bus service, with the nearest Luas stop at Charlemont (Green line) being c.1.25km walking distance to the east. The subject site has good, proximate access to a wide range of services, facilities, employment and education opportunities, and amenities and will be further enhanced and improved as BusConnects is rolled out to a greater extent in the coming years. Therefore, I am satisfied that proposed car parking is acceptable in the context of the site location relative to public transport provision and the promotion of sustainable transport modes and in accordance with Section 4.0 of Appendix 5 of the Development Plan and the Mobility Management Plan accompanying the planning application.

8.9.13. As regards potential overspill, it is not anticipated the development would generate a demand over and above the carpark provided for onsite and a key component in the continued efficiency of on-site car parking will be an active and enforced parking management strategy. This strategy will be managed by the building management company. The implementation of the car parking management regime as set out in section 5.3 of the Car Parking Management Regime will therefore ensure that the risk of any 'overspill' car parking on the surrounding streets is minimised.

8.9.14. Accordingly, I am satisfied that sufficient car parking has been provided on the site having particular regard to the location relative to public transport and the provisions of the Development Plan and the Apartment Guidelines 2023 which provide for reduced car parking for development in central and accessible locations.

8.9.15. The Transportation Planning Division are satisfied with the quantum of car parking and bicycle parking proposed, noting the distribution of same throughout the site with accommodation for varies types of cars and bicycle provision.

### Conclusion

It is proposed to access the development via the existing access currently serving the residential development on the site off Harolds Cross Road. Therefore, I am satisfied

that the principle of access to residential development at location has been established and planning permission can be granted subject to the provisions of section 34(13) of the Act.

On balance, the proposed development is located at a well-served urban location close to a variety of amenities and facilities. The site is within walking distance of high frequency Dublin Bus services. The Development Plan contains policies and objectives which promote measures that have the potential to reduce the climate impact of transport by encouraging a shift from private motorised transport to walking, cycling and public transport. It is inevitable that traffic in all forms will increase as more housing comes on stream. However, I am satisfied that the components are in place to encourage existing and future residents to increase modal shift away from car use to more sustainable modes of transport and this can be achieved by the implementation of the mobility management plan and car parking strategy submitted by the applicant.

#### **8.10. Other Matters**

##### *Deprecation of Property*

- 8.10.1. Observer concerns were raised that the development would significantly devalue residential property in the vicinity. I am satisfied that the applicant has demonstrated that the development would not result in the devaluation of property in the area. I consider the scheme will provide increased amenity for the area, will result in the enhancement of the character of the wider area and will result in a planning gain for the area.

##### *Architectural Drawings not Accurate*

- 8.10.2. Some concerns were raised by observers that the architectural drawings were not accurate. I have reviewed the application drawings, and I am satisfied that the drawings as presented are sufficient to assess the planning application.

##### *Construction Impacts*

- 8.10.3. Concerns are raised by some observers regarding construction impacts. While it is acknowledged that the proposed construction phase would cause noise and disturbance the works would be temporary. The use of best practice noise control measures, hours of operation, scheduling of works within appropriate time periods,

strict construction noise limits and noise monitoring during this phase will ensure impacts are controlled to within the adopted criteria.

## **9.0 Environmental Impact Assessment Screening**

9.1.1. The application addresses the issue of EIA within an EIA Screening Report that contains information to be provided in line with Schedule 7A of the Planning Regulations. I have had regard to same in this screening assessment. The EIA Screening Report identifies and describes adequately the direct, indirect, secondary and cumulative effects of the proposed development on the environment.

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

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

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

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

- works of demolition carried out in order to facilitate a project listed in Part 1 or Part 2 of this Schedule where such works would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7.
- Class 15 of Schedule 5 relates to any project listed in Part 2 of Schedule 5 which does not exceed a quantity, area or other limit specified in Part 2 in respect of the relevant class of development, but which would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7.

9.1.3. A detailed description of the development is outlined in section 3.1 of the report. In summary, it is proposed to demolish all existing buildings on site (c. 5,356m<sup>2</sup>) and construct 181 no. apartment, a retail unit, crèche and community/art cultural spaces

all on a site area of c. 1.06Ha. Having regard to classes 10(b)(i) and 10(b)(iv) of Schedule 5 to Part 2 of the Planning Regulations, the proposed development is subthreshold in terms of the mandatory submission of an EIA. The nature and the size of the proposed development is below the applicable class 10(b) thresholds for EIA.

- 9.1.4. As outlined above, the criteria at Schedule 7 to the Planning and Development Regulations 2001 (as amended) are relevant to the question as to whether the proposed sub-threshold development would be likely to have significant effects on the environment that should be the subject of environmental impact assessment. I would note that the requirement for EIA has not been suggested by any of the submissions or reports connected to the application and appeal.
- 9.1.5. Class 14 relates to works of demolition carried out in order to facilitate a project. The proposed development comprises of the demolition of all existing structures on site (c. 5,356m<sup>2</sup>), i.e. (a) 4 no. 3 storey duplex residential buildings (i.e. 48 no. dwellings, c. 3,542m<sup>2</sup>) and 2 no. 1 storey detached dwellings i.e. No's 49 & 50 (c. 40m<sup>2</sup> & 41m<sup>2</sup> respectively) all within Harold's Bridge Court, (b) 3 no. 2 storey houses at No's 1-3 Clare Villas (c. 331m<sup>2</sup> in total) and (c) an existing warehouse (c.1,248m<sup>2</sup>) and ancillary structures (c.154m<sup>2</sup>) fronting onto Greenmount Lane .All demolition works will be carried out in accordance with best practice in accordance with the submitted Construction and Demolition Waste Management Plan and the Resource and Waste Management Plan. No likely significant impacts are likely to occur as a result of the proposed demolition works. I note that the site is a serviced brownfield site where there is existing residential and artistic uses. The introduction of a residential development will not have an adverse impact in environmental terms on surrounding land uses.
- 9.1.6. The criteria within Schedule 7 to the Planning Regulations are relevant in considering whether this proposed development would be likely to have significant effects on the environment that could and should be the subject of EIA. The residential use proposed would be similar to the surrounding land uses in the area. The proposed development would not increase the risk of flooding and it would not give rise to significant use of natural resources, the production of waste, pollution, nuisance or a risk of accidents. The development would be served by municipal foul wastewater drainage and water supplies. I note that the site is not designated for the protection of the landscape or of natural heritage. With mitigation measures in place, including pre-development testing and monitoring of groundworks, I am satisfied there will be no significant impact on

archaeology. The site is not located within an Architectural Conservation Area. There are a number of Protected Structures in the wider areas, including those on Parnell Road to the north and north-west of the site. I note the contents also of the Architectural Heritage Impact Assessment, which does not highlight any significant negative impacts on the Protected Structures referred to above (Section 8.5 of this report) and determined no loss of cultural heritage and no significant detrimental impact on the Protected Structures or the Grand Canal Conservation Area as a result of the development.

- 9.1.7. The site does not support substantive habitats or species of conservation significance, as highlighted in the Ecological Impact Assessment submitted with the application. In total three species of bat, soprano pipistrelle *Pipistrellus pygmaeus*, common pipistrelle *Pipistrellus* were recorded during presence/absence surveys. No roosts were found on site. No signs of badger activity were noted within the proposed development site. The habitats found within the proposed development site provide limited amounts suitable foraging habitat for badgers. While Otters are also known to use the Grand Canal often for commuting purposes. There were no signs of otter present within the site. No signs of protected mammal fauna were noted within the lands. The grasslands and hedgerows within the proposed development site offer some suitable foraging and breeding habitat for hedgehogs, red squirrel and pygmy shrews. However, due to the fragmented nature of these habitats, and a lack of connectivity to surrounding green spaces offering commuting and suitable resting places, habitat within the proposed development site is not likely to support significant populations of protected small mammals.
- 9.1.8. There are potential consequences for nocturnal mammals (in particular, bats) from these alterations that would contribute to a short-term moderate negative reversible impact where lighting is not properly controlled. This impact is not considered to be significant. Connectivity of the site with protected areas and their associated qualifying interest species is considered further below in section 10 of this report. The nature and the size of the proposed development alongside this existing development remains below the applicable class 10(b) thresholds for EIA.
- 9.1.9. The reports submitted with the application address a variety of environmental issues and the environmental impacts of the proposed development. The reports demonstrate that, subject to the various recommended construction and design-

related mitigation measures, the proposed development would not have a significant impact on the environment. I have had regard to the characteristics of the site, the location of the proposed development, and the type and characteristics of the potential impacts. Having regard to the Schedule 7A information, I have examined the sub-criteria and all submissions, and I have considered all information that accompanied the application and appeal. In addition, noting the requirements of Article 103(1A)(a) of the Planning Regulations, the first party has provided a statement indicating how the available results of other relevant assessments have been taken into account on the effects of the project on the environment carried out pursuant to European Union legislation other than the EIA Directive.

9.1.10. Section 5.0 of the EIA screening information prepared by the first-party appellant addresses the implications and interactions of the proposed development and concludes that the development would not be likely to have significant effects on the environment. I am satisfied that all other relevant assessments have been identified for the purposes of screening for EIA. I have had regard to all of the reports detailed above and I have taken them into account in this assessment, together with the Strategic Environmental Assessment of the Development Plan. I am satisfied that the information required under Article 103(1A)(a) of the Planning Regulations has been submitted.

9.1.11. I have completed an EIA screening assessment of the proposed development with respect to all relevant considerations, as set out in Appendix A to this report. I am satisfied that the location of the project and the environmental sensitivity of the geographical area would not justify a conclusion that the proposed development would be likely to have significant effects on the environment. The proposed development does not have the potential to have effects that would be rendered significant by their extent, magnitude, complexity, probability, duration, frequency or reversibility, and this opinion extends to my conclusion that the proposed development is subthreshold in terms of the mandatory submission of an EIA based on class 14 of Part 2 to Schedule 5 of the Planning Regulations and Class 15 of Part 2 of Schedule 5. In these circumstances, the application of the criteria in Schedule 7 of the Planning Regulations to the proposed subthreshold development demonstrates that it would not be likely to have significant effects on the environment and that an EIA is not required should a decision to grant planning permission for the project be arrived at. This conclusion is

consistent with the EIA screening information submitted with the subject application and the opinion of the Planning Authority. A Screening Determination can be issued confirming that there is no requirement for an EIA Report to be prepared for the project based on the above considerations.

## **10.0 Appropriate Assessment**

**10.1.** I refer the Board to Appendix B -AA Screening Determination.

### *Screening Determination Conclusion*

**10.2.** I am satisfied the potential for significant effects, as a result of surface and foul waters generated during the construction and operational stages, on the qualifying interests of the applicable Natura 2000 sites (South Dublin Bay SAC and South Dublin Bay and River Tolka Estuary SPA) can be excluded having regard to the following:

- During the construction stage, surface water will be attenuated/part treated within the site and the nature of any discharges is temporary/of a relatively low volume relative to the recovering surface water and marine environments.
- Should a pollution event occur during the construction phase, due to the accidental spillage or release of contaminants, this would not be of such magnitude so as to have a significant adverse effect on downstream water quality in Dublin Bay due to the level of separation and the dilution arising from the volume of water between the sites.
- There will be an improvement in surface water run-off during the operational phase, relative to the existing situation, as surface water will be attenuated/ part treated within the site.
- Foul and surface waters will discharge to the existing combined foul and surface water network and will travel to Ringsend WWTP for treatment prior to discharge to Dublin Bay; the Ringsend WWTP is required to operate under EPA licence and meet environmental standards, further upgrade is underway and the foul discharge from the proposed development would equate to a very small percentage of the overall licenced discharge at Ringsend WWTP, and thus would not impact on the overall water quality within Dublin Bay.
- I would also note that the EPA classified water quality in Dublin Bay as 'unpolluted' in 2018.

- There is no potential for impacts on the qualifying interests due to noise and other disturbance impacts during construction and operational phases given the level of separation between the sites. While there is a potential risk of noise and disturbance during construction to ex-situ qualifying species, no significant effects are predicted as it is unlikely that the qualifying species will use habitats within the subject lands and in any case the proposed development is not likely to result in a significant increase in noise and disturbance over the existing levels.

**10.3.** It is evident from the information before the Board that on the basis of the nature and scale of the proposed development on serviced lands, the nature of the receiving environment which comprises a built-up urban area, the distances to the nearest European sites and the hydrological pathway considerations, submissions on file, the information submitted as part of the applicant's Appropriate Assessment Screening report that, by itself or in combination with other development, plans and projects in the vicinity, the proposed development would not be likely to have a significant effect on the South Dublin Bay SAC (000210) **and** South Dublin Bay and River Tolka Estuary SPA (004024) or an European Site in view of the conservation objectives of such sites, and that a Stage 2 Appropriate Assessment is not, therefore, required.

**10.4.** In reaching my screening assessment conclusion, no account was taken of measures that could in any way be considered to be mitigation measures intended to avoid or reduce potentially harmful effects of the project on any European Site. In this project, no measures have been especially designed to protect any European Site and even if they had been, which they have not, European Sites located downstream are so far removed from the subject lands and when combined with the interplay of a dilution affect such potential impacts would be insignificant. I am satisfied that no mitigation measures have been included in the development proposal specifically because of any potential impact to a Natura 2000 site.

## **11.0 Conclusion and Recommendation**

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



## 12.0 Recommended Board Order

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

**Planning Authority:** Dublin City Council

**Planning Register Reference Number:** LRD6036/24-S3

Appeals by The Adroit Company Limited, against the decision made on the 4<sup>th</sup> March 2024 by Dublin City Council to refused permission to The Adroit Company Ltd for the proposed Large Scale Residential Development application.

**Location:** 'Harold's Bridge Court, No's 1-3 Clare Villas, No. 18 Greenmount Lane, and No. 11 Limekiln Lane, located at Harold's Cross Road, Greenmount Lane & Limekiln Lane, Harold's Cross, Dublin 6W.

**Proposed Development:** Development of a Large-scale Residential Development (LRD) will consist of:

**181 no. dwellings comprised of studio, 1, 2 & 3 bed apartment units in 4 no. 3-7 storey blocks** (accommodated in proposed Blocks A-D). The development also **includes: (a) 1 no. retail (shop local) unit** (c.174sq.m) at ground floor level of Block A, **(b) 1 no. creche (c.140sq.m)** at ground floor level of Block C, and **(c) c.519sq.m** of community/arts & culture space at ground and first floor of Block D (facing onto Greenmount Lane) and c. 147sq.m of community/arts & culture space in No. 18 Greenmount Lane & No. 11 Limekiln Lane, all on a site area of c. 1.06Ha.

Permission is sought for **the demolition of all existing buildings on site** (c. 5,356m<sup>2</sup>), i.e. (a) 4 no. 3 storey duplex residential buildings (i.e. 48 no. dwellings, c. 3,542m<sup>2</sup>) and 2 no. 1 storey detached dwellings i.e. No's 49 & 50 (c. 40m<sup>2</sup> & 41m<sup>2</sup> respectively) all within Harold's Bridge Court, (b) 3 no. 2 storey houses at No's 1-3 Clare Villas (c. 331m<sup>2</sup> in total) and (c) an existing warehouse (c.1,248m<sup>2</sup>) and ancillary structures (c.154m<sup>2</sup>) fronting onto Greenmount Lane.

**Permission is sought for a change of use from existing residential to proposed community/arts & culture space** at No. 18 Greenmount Lane & No. 11 Limekiln Lane. Vehicular access to the proposed development will be via Harold's Cross Road, utilizing the existing entrance to Harold's Bridge Court. Limited vehicular traffic will be allowed enter the site from Greenmount Lane, with no vehicular traffic progressing through the entire development. Pedestrian and cyclist access is proposed via

Greenmount Lane, Limekiln Lane and Harold's Cross Road.

The proposed development consists of the following:

- **Block A** is a four to six storey building accommodating 51 no. dwellings, comprised of 1 no. studio apartment, 32 no. 1 bed apartments & 18 no. 2 bed apartments. Block A also includes 1 no. retail (shop local) unit (c.174sq.m) at ground floor level, with a communal amenity room (c.21sq.m) on the 5th floor. Communal open space / roof gardens are provided at 4th floor level (c.145sq.m) and 2 no. communal roof gardens (c.50sq.m & c.89sq.m respectively) on the 5th floor. Bin and bicycle stores, sub-station & switch room are accommodated at ground floor.
- **Block B** is a three to seven storey building accommodating 51 no. dwellings, comprised of 2 no. studio apartments, 18 no. 1 bed apartments, 30 no. 2 bed apartments & 1 no. 3 bed apartment. Block B also includes a reception / concierge room (c.18sq.m) at ground floor, with communal roof gardens on the 3rd floor (c.153sq.m) and on the 6th floor (c.86sq.m). A bicycle store is accommodated at ground floor.
- **Block C** is a three to seven storey building accommodating 50 no. dwellings, comprised of 1 no. studio apartment, 17 no. 1 bed apartments & 32 no. 2 bed apartments. Block C also includes a 1 storey creche (c.140sq.m) at ground floor level, with associated outdoor play space (c.233sq.m). A bicycle store is accommodated at ground floor and a communal roof garden (c.168sq.m) provided on the 6th floor.
- **Block D** is a four to five storey building accommodating 29 no. dwellings, comprised of 2 no. studio apartments, 17 no. 1 bed apartments & 10 no. 2 bed apartments. Block D also accommodates c. 519sq.m of floor space intended to be used as community/arts & culture space at ground and first floor (facing onto Greenmount Lane). Bin and bicycle stores, and communal open space (c. 294sq.m) are accommodated at ground floor.
- The proposed development provides for public open space (c.1,355sq.m), hard and soft landscaping & boundary treatments. Communal residential amenity areas and open spaces are provided for in the form of communal roof gardens and communal rooms associated with the individual buildings. Additional communal open space is provided at ground level totalling c.862sq.m. Private open spaces

for the proposed dwellings are provided as terraces at ground floor level of each block and balconies at all upper levels.

- Car parking is to be provided in the form of surface and basement level car parking (63 no. spaces in total). Blocks B & C are located above the proposed basement, which accommodates 56 no. car parking spaces (including EV & mobility impaired parking spaces), 4 no. motorcycle spaces and 444 no. bicycle parking spaces (including 10 no. cargo bike spaces & 60 no. electric bike spaces). There are an additional 7 no. surface level car parking spaces proposed (i.e., 4 no. club car spaces, 1 no. EV space & 2 no. mobility impaired spaces), and 60 no. surface bicycle parking spaces. Bicycle parking is also accommodated at ground floor level within Blocks A, B, C & D (120 no. spaces total).
- The proposed development includes for all associated site development works above and below ground, bin & bicycle stores, plant (M&E), 2 no. sub-stations / switch rooms, public lighting, servicing, signage, etc.

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

### **Matters Considered**

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

### **Reasons and Considerations**

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

- (a) the location of the site in an area where residential/mixed use development is permitted under zoning Z1 of the Dublin City Development Plan 2022-2028.
- (b) the policies and objectives of the Dublin City Development Plan 2022-2028;
- (c) The nature, scale and design of the proposed development and the availability in the area of infrastructure;

- (d) The pattern of existing and permitted development in the area;
- (e) The provisions of Housing for All, A New Housing Plan for Ireland 2021;
- (f) The Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities prepared by the Department of Housing, Local Government and Heritage, 2024
- (g) Urban Development and Building Heights Guidelines for Planning Authorities, prepared by the Department of Housing, Planning and Local Government in December 2018;
- h) The Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of the Environment, Community and Local Government 2023;
- (i) Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2013;
- (j) The Planning System and Flood Risk Management' (including the associated 'Technical Appendices') 2009;
- (k) The Architectural Heritage Protection Guidelines for Planning Authorities 2011.
- (l) The provisions of the Climate Action Plan 2023
- (m) The policies and objectives set out in the National Planning Framework
- (n) The policies and objectives of the Regional and Spatial Economic Strategy for the Eastern and Midland Regional Assembly
- (o) The grounds of appeal received
- (p) The observations received
- (q) The submission from the Planning Authority

it is considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable residential density, would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would be acceptable in terms of urban design, height and quantum of development and would be acceptable in terms of traffic and pedestrian safety and convenience. The proposed development would, therefore, be in accordance with the

proper planning and sustainable development of the area.

### **Appropriate Assessment Screening**

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

### **Environmental Impact Assessment Screening**

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

Having regard to:

- the nature and scale of the proposed development, which is below the threshold in respect of classes 10(b)(i), 10(b)(iv) and 14 of Part 2 to Schedule 5 of the Planning and Development Regulations 2001, as amended;
- the location of the proposed apartments on lands zoned within the Dublin City Development Plan 2022-2028 and the results of the Strategic Environmental Assessment of the Development Plan;
- the nature of the existing site and the pattern of development in the surrounding area;

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

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

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

The Board considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable quantum and density of development in this suburban / brownfield location, would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would be acceptable in terms of urban design, height and scale of development, would not detrimentally impact on the built heritage of the area, would be acceptable in terms of impacts on traffic, would provide an acceptable form of residential amenity for future occupants, subject to the completion of the recently commended Poodle Flood Alleviation Scheme would not be at risk of flooding, or increase the risk of flooding to other lands and would be capable of being adequately served by wastewater and water supply networks. The Board considered that the proposed development would be compliant with the provisions of the Dublin City Development Plan 2022-2028, and

would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 13.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application received by Dublin City Council on the 9<sup>th</sup> January 2024, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

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

2. No part of the proposed development shall be occupied until such time as the River Poddle Flood Alleviation Scheme has been completed in full.

**Reason:** In the interest of proper planning and orderly development and in the interest of residential amenity.

3. Mitigation and monitoring measures outlined in the plans and particulars, submitted with this application, shall be carried out in full, except where otherwise required by conditions attached to this permission.

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

4. A schedule of all materials to be used in the external treatment of the development to include a variety of high-quality finishes, such as brick and stone, roofing materials, windows and doors shall be submitted to and agreed in writing with, the planning authority prior to commencement of development. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

**Reason:** In the interest of visual amenity and to ensure an appropriate high standard of development.

5. The development shall be carried out in accordance with a detailed phasing scheme, full details of which shall be submitted and agreed with the Planning Authority prior to

the commencement of development.

**Reason:** In the interest of proper planning and orderly development and in the interest of public health.

6. The opening hours, waste management, signage and intended occupant of the proposed retail unit shall be submitted to, and agreed in writing with, the planning authority prior to commencement of any operations.

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

7. The opening hours, waste management and signage for the proposed creche shall be submitted to, and agreed in writing with, the planning authority prior to commencement of any operations.

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

8. Full details of end users of the community/cultural spaces in addition to hours of operation, waste management and signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of any operations.

**Reason:** In the interests of proper planning and orderly development and in the interest of residential amenity.

9. The construction of the development shall be managed in accordance with a Construction Environmental Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

This plan shall provide details of intended construction practice for the development, including:

- a) A Pre-Construction Invasive Species Management Plan and an Invasive Species Management Plan if required;
- c) A pre-construction condition survey of adjacent properties, if required;
- d) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
- e) Location of areas for construction site offices and staff facilities;
- f) Details of site security fencing and hoardings;
- gf) Details of on-site car parking facilities for site workers during the course of construction;



- h) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;
- i) Measures to obviate queuing of construction traffic on the adjoining road network;
- j) Details of lighting during construction works;
- k) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- l) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site works;
- m) Provision of parking for existing properties at during the construction period;
- n) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- o) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
- p) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- q) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.
- r) A record of daily checks that the works are being undertaken in accordance with the Construction Environmental Management Plan shall be kept for inspection by the planning authority.

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

10. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006.

**Reason:** In the interest of sustainable waste management.

11. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays and between 0800 and 1400 on Saturdays, and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

12. Prior to commencement of development, the developer shall enter into water and wastewater connection agreements with Irish Water.

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

13. Drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority.

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

14. The developer shall comply with the detailed requirements of Transportation Planning Division of Dublin City Council

**Reason:** To ensure a satisfactory standard of development in the interest of public safety.

15. The boundary planting, lighting and open spaces and biodiversity enhancement plan shall be in accordance with the details submitted to the planning authority with the application, unless otherwise agreed in writing with the planning authority. The landscape scheme shall be implemented fully in the first planting season following completion of the development, and any trees or shrubs which die or are removed within three years of planting shall be replaced in the first planting season thereafter. This work shall be completed before any of the dwellings are made available for occupation. Access to green roof areas shall be strictly prohibited unless for maintenance purposes.

**Reason:** In order to ensure the satisfactory of the public open space areas, and their continued use for this purpose.

16. Prior to the occupation of the residential units, a Mobility Management Strategy shall be submitted to and agreed in writing with the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking. The mobility

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

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

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

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

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

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

19. a) The developer shall engage the services of a suitably qualified archaeologist to co-ordinate and finalise the mitigation proposals contained in the Archaeological Assessment (Section 5, page 29) for archaeological testing in advance of construction works and archaeological monitoring of ground disturbance at construction stage access if the development site.  
  
b) Should previously unidentified archaeological material be found during the course of testing and monitoring, the archaeologist may have work on the site stopped, pending a decision as to how best to deal with the archaeology. The Planning Authority (in consultation with the City Archaeologist and the National Monuments Service, Dept. of Housing, Local Government and Heritage, shall determine the further archaeological resolution of the site.  
  
c) Following completion, a full report shall be furnished to the Planning Authority and Dept. of Housing, Local Government and Heritage

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

19. a) All trees shall be inspected by a suitable qualified expert for bats prior to felling. In the event a roost is found the developer shall require a derogation license from the National Parks and Wildlife Service.
- b) Bat and bird boxes shall be installed in the proposed development, prior to the occupation of the residential units. The number, type and location of the boxes shall be submitted to and agreed in writing with the planning authority.
- c) Any clearance of vegetation from the site should only be carried out in the period between the 1st of September and the end of February i.e. outside the main bird breeding season.

**Reason:** To avoid the destruction of the nests, nestlings and eggs of breeding birds and to avoid the proposed development causing detrimental effects on flora, fauna and natural habitats.

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

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

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

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

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

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

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

I confirm that this report represents my professional planning assessment, judgement and opinion of 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.

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Irené McCormack

Senior Planning Inspector

21<sup>st</sup> May 2024

## Appendix A - EIA- Screening Determination

A. CASE DETAILS		
An Bord Pleanála Case Reference (319421-24)		
Development Summary	Demolition of all structures on the site and site clearance works. Construction of 181apartments in four no. blocks.	
	Yes / No / N/A	Comment (if relevant)
1. Was a Screening Determination carried out by the PA?	Yes	EIA not required
2. Has Schedule 7A information been submitted?	Yes	
3. Has an AA screening report or NIS been submitted?		An Appropriate Assessment Screening Report was submitted with the application. An Ecological Impact Assessment was also submitted with the application.
5. Have any other relevant assessments of the effects on the environment which have a significant bearing on the project been carried out pursuant to other relevant Directives – for example SEA		SEA and AA were undertaken in respect of the Dublin City Development Plan 2022-2028

B. EXAMINATION	Where relevant, briefly describe the characteristics of impacts ( i.e. the nature and extent) and any Mitigation Measures proposed to avoid or prevent a significant effect  (having regard to the probability, magnitude (including population size affected), complexity, duration, frequency, intensity, and reversibility of impact)	Is this likely to result in significant effects on the environment?  Yes/ No/ Uncertain
<b>1. Characteristics of proposed development</b> (including demolition, construction, operation, or decommissioning)		
1.1 Is the project significantly different in character or scale to the existing surrounding or environment?	The proposed development would provide for a new residential development at an outer urban location that exceeds the predominately building height immediate to the site. However, it is not regarded as being of a scale or character significantly at odds with the surrounding pattern of development having regard to the design approach employed and the emerging character along the Grand Canal.	<b>No</b>
1.2 Will construction, operation, decommissioning or demolition works causing physical changes to the locality (topography, land use, waterbodies)?	The proposed residential development has been designed to logically address the topography on site, resulting in minimal change in the locality, with standard measures to address potential impacts on surface water and groundwaters in the locality.	<b>No</b>
1.3 Will construction or operation of the project use natural resources such as land, soil, water, materials/minerals or energy, especially resources which are non-renewable or in short supply?	Construction materials will be typical for an urban development of this nature and scale.	<b>No</b>




<p><b>1.4</b> Will the project involve the use, storage, transport, handling or production of substance which would be harmful to human health or the environment?</p>	<p>Construction activities will require the use of potentially harmful materials, such as fuels and other such substances. Use of such materials would be typical for construction sites. Any impacts would be local and temporary in nature and the implementation of the standard construction practice measures outlined in the Outline CEMP would satisfactorily mitigate potential impacts. No operational impacts in this regard are anticipated.</p>	<p><b>No</b></p>
<p><b>1.5</b> Will the project produce solid waste, release pollutants or any hazardous / toxic / noxious substances?</p>	<p>Construction activities will require the use of potentially harmful materials, such as fuels and other similar substances and give rise to waste for disposal. The use of these materials would be typical for construction sites. Noise and dust emissions during construction are likely. Such construction impacts would be local and temporary in nature, and with the implementation of the standard measures outlined in the Construction Phase Environmental Management Plan, the project would satisfactorily mitigate the potential impacts. Operational waste would be managed through a waste management plan to obviate potential environmental impacts. Other operational impacts in this regard are not anticipated to be significant.</p>	<p><b>No</b></p>
<p><b>1.6</b> Will the project lead to risks of contamination of land or water from releases of pollutants onto the ground or into surface waters, groundwater, coastal waters or the sea?</p>	<p>Operation of the standard measures listed in the Construction Phase Environmental Management Plan, will satisfactorily mitigate emissions from spillages during construction and operation. The operational development will connect to mains services and discharge surface waters only after passing through fuel interceptors and SUDS. Surface water drainage will be separate to foul services within the site.</p>	<p><b>No</b></p>

<b>1.7</b> Will the project cause noise and vibration or release of light, heat, energy or electromagnetic radiation?	There is potential for construction activity to give rise to noise and vibration emissions. Such emissions will be localised and short term in nature, and their impacts would be suitably mitigated by the operation of standard measures listed in the Construction Phase Environmental Management Plan and Outdoor lighting Report.	<b>No</b>
<b>1.8</b> Will there be any risks to human health, for example due to water contamination or air pollution?	Construction activity is likely to give rise to dust emissions. Such construction impacts would be temporary and localised in nature and the application of standard measures within the Construction Phase Environmental Management Plan, Resource Waste Management Plan and Operational Waste Management Plan would satisfactorily address potential risks on human health. No significant operational impacts are anticipated for the piped water supplies in the area.	<b>No</b>
<b>1.9</b> Will there be any risk of major accidents that could affect human health or the environment?	No significant risk is predicted having regard to the nature and scale of the development. Any risk arising from demolition and construction will be localised and temporary in nature. The site is not at risk of flooding. Wind Microclimate Modelling determined the proposed development does not impact or give rise to negative or critical wind speed profiles at the nearby adjacent roads, or nearby buildings	<b>No</b>
<b>1.10</b> Will the project affect the social environment (population, employment)	Development of this site would result in an increase in population in this area. The development would provide housing that would serve towards meeting an anticipated demand in the area.	<b>No</b>
<b>1.11</b> Is the project part of a wider large scale change that could result in cumulative effects on the environment?	<b>No</b>	<b>No</b>

## 2. Location of proposed development

<p><b>2.1</b> Is the proposed development located on, in, adjoining or have the potential to impact on any of the following:</p> <ul style="list-style-type: none"> <li>a) European site (SAC/ SPA/ pSAC/ pSPA)</li> <li>b) NHA/ pNHA</li> <li>c) Designated Nature Reserve</li> <li>d) Designated refuge for flora or fauna</li> <li>e) Place, site or feature of ecological interest, the preservation/conservation/ protection of which is an objective of a development plan/ LAP/ draft plan or variation of a plan</li> </ul>	<p>The nearest European sites are listed in Appendix B of this report and other designated sites are referenced in the application AA Screening Report. Protected habitats or habitats suitable for substantive habituating of the site by protected species were not found on site during ecological surveys. The proposed development would not result in significant impacts to any protected sites, including those downstream.</p>	<p><b>No</b></p>
<p><b>2.2</b> Could any protected, important or sensitive species of flora or fauna which use areas on or around the site, for example: for breeding, nesting, foraging, resting, over-wintering, or migration, be significantly affected by the project?</p>	<p>The proposed development would not result in significant impacts to protected, important or sensitive species</p>	<p><b>No</b></p>
<p><b>2.3</b> Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?</p>	<p>The site is within an area of archaeological potential. Any impact will be mitigated by Archaeological monitoring on site. Adjoining Protected Structures are removed from the site. The impact of the development is not anticipated to be significant. The design has had regard to the impact on adjoining Protected Structures as set out in the accompanying AHIA.</p>	<p><b>No</b></p>
<p><b>2.4</b> Are there any areas on/around the location which contain important, high quality or scarce resources which could be affected by the project, for example: forestry, agriculture, water/coastal, fisheries, minerals?</p>	<p>No such features are in this urban location, with the site separated from agricultural areas by intervening urban lands and road infrastructure</p>	<p><b>No</b></p>
<p><b>2.5</b> Are there any water resources including surface waters, for example: rivers, lakes/ponds, coastal or groundwaters which could be affected by the project, particularly in terms of their volume and flood risk?</p>	<p>The development will implement SUDS measures to control surface water run-off. The development would not increase risk of flooding to downstream areas with surface water to discharge at greenfield runoff rates.</p>	<p><b>No</b></p>

<b>2.6</b> Is the location susceptible to subsidence, landslides or erosion?	<b>No</b>	<b>No</b>
<b>2.7</b> Are there any key transport routes(eg National primary Roads) on or around the location which are susceptible to congestion or which cause environmental problems, which could be affected by the project?	The site is served by a local road network. There are sustainable transport options available for future residents. No significant contribution to traffic congestion is anticipated to arise from the proposed development.	<b>No</b>
<b>2.8</b> Are there existing sensitive land uses or community facilities (such as hospitals, schools etc) which could be significantly affected by the project?	The site is in close proximity to hospitals and schools. However, there is no negative impact anticipated as a result of the proposal.	<b>No</b>
<b>3. Any other factors that should be considered which could lead to environmental impacts</b>		
<b>3.1 Cumulative Effects:</b> Could this project together with existing and/or approved development result in cumulative effects during the construction/ operation phase?	No existing or permitted developments have been identified in the immediate vicinity that would give rise to significant cumulative environmental effects with the subject project.	<b>No</b>
<b>3.2 Transboundary Effects:</b> Is the project likely to lead to transboundary effects?	<b>No</b>	<b>No</b>
<b>3.3</b> Are there any other relevant considerations?	<b>No</b>	<b>No</b>
<b>C. CONCLUSION</b>		
<b>No real likelihood of significant effects on the environment.</b>	<b>Agreed</b> <input type="checkbox"/>	<b>EIAR Not Required</b>
<b>Real likelihood of significant effects on the environment.</b>	<input type="checkbox"/>	

## D. MAIN REASONS AND CONSIDERATIONS

Having regard to

- the nature and scale of the proposed development, which is below the threshold in respect of classes 10(b)(i), 10(b)(iv) and 14 of Part 2 to Schedule 5 of the Planning and Development Regulations 2001-2022;
- the location of the proposed residential units on lands zoned within the Dublin City Development Plan 2022-2028 as 'Z1 - Sustainable Residential Neighbourhoods' with a stated objective 'to protect, provide and improve residential amenities', and the results of the Strategic Environmental Assessment of the Development Plan;
- the nature of the existing site and the pattern of development in the surrounding area;
- the availability of mains water and wastewater services to serve the proposed development;
- the location of the development outside of any sensitive location specified in Article 299(C)(1)(a)(v) of the Planning and Development Regulations 2001, as revised.
- the guidance set out in the 'Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development', issued by the Department of the Environment, Heritage and Local Government (2003);
- the criteria set out in Schedule 7 of the Planning and Development Regulations 2001, as revised, and;
- the features and measures proposed by the applicant that are envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified to be provided as part of the project Construction Management Plan, the Operational Waste Management Plan, Resource Waste Management Plan, Biodiversity Enhancement Plan, the Architectural Heritage Impact Assessment and Archaeological Assessment and the Engineering Services Report. It is considered that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an environmental impact assessment report would not, therefore, be required.

Inspector \_\_\_\_\_

Date \_\_\_\_\_

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

Date \_\_\_\_\_

## Appendix B – Appropriate Assessment Screening Determination

### Screening for Appropriate Assessment Screening Determination

#### 1: Description of the project

I have considered the Harold Cross Court LRD in light of the requirements of S177U of the Planning and Development Act 2000 as amended.

There are no European sites in the immediate vicinity of the proposed development site. The closest European sites to the proposed development are South Dublin Bay SAC (Site Code 000210) and South Dublin Bay and River Tolka Estuary SPA (Site Code 004024); both c. 4.2 km to the east, in Dublin Bay. Water from the site discharges into the Liffey Estuary Lower transitional water body via Ringsend WwTP and via the Poddle\_010, before ultimately draining to Dublin Bay c. 10.9km downstream. The proposed development is hydrologically connected to the following additional European sites in Dublin Bay situated approximately c. 7.3km east of the proposed development site in Dublin Bay: North Dublin Bay SAC (Site Code 000206), North Bull Island SPA (Site Code 004006).

The proposed development comprises the demolition of all existing buildings on site for the development of 181 dwellings in 4 apartment blocks 3-7 storeys in height.

The site is urban in nature and has limited value in terms of biodiversity. The proposed development is flanked by urban residential and commercial lands to the east, north and south, and by more extensive (mixed) parklands to the west. The habitats on site largely comprised of buildings and artificial surfaces (BL3) and amenity grassland (GA2). There are no Annex I habitats present within the proposed development site or immediate environs. The treeline habitat within the proposed development is considered to be of local importance (higher value), whilst the rest of the habitats are considered to be of local importance (lower value) or of negligible importance. The habitat types are described in greater detail in the Ecological Impact Assessment Report accompanying this application.

The River Poddle flows culverted to the west of the site and flows north towards the River Liffey where outfalls c. 2 km from the subject site. The nearest waterbody to the subject site is the Grand Canal pNHA (Site Code: 002104) runs in an east – west direction at c.60m to the north of the subject site. As the canal is a contained feature (fully lined) there

is no potential for a source pathway linkage.

In relation to hydrology, the AA Screening Report notes that there are no major waterbodies within the proposed development site, however, it is noted that the Poddle flows northwards just west of the site, before entering the Liffey Estuary Lower c. 1.9km downstream of the site, which flows into Dublin Bay c. 6 km further to the east (Figure 3). The Poddle has an 'Unassigned' WFD status. The River Liffey located c. 1.9km downstream of the proposed development site, has 'Intermediate' WFD status and is 'at risk' according to the EPA. Dublin Bay itself has 'Good' WFD status and is 'not at risk' according to the EPA. The site is located within the Dodder sub-catchment in the Liffey and Dublin Bay catchment, which drains to Dublin Bay.

In relation to hydrogeology, the AA Screening Report notes that the bedrock aquifer underlying the proposed site is described as a 'Locally Important Aquifer - Bedrock which is Moderately Productive only in Local Zones'. The groundwater vulnerability underlying the site is largely 'moderate' but with a small area at the southern end of the site in the 'high' category. The Dublin groundwater body is currently classified as having 'Good Status' and is 'not at risk'. There is only one European site within the Dublin groundwater body designated for groundwater dependent terrestrial habitats and species, Rye Water Valley/Carton SAC, c. 14.5km west (and upstream via different watercourses) of the proposed development site.

I refer the Board also to section 8.6 *Permeability, Trees and Biodiversity* of the main report.

#### Submissions and Observations

The planning authority referred to the application to the relevant prescribed Bodies. No reports were received.

## **2. Potential impact mechanisms from the project**

### Zone of Influence

**All of the European sites present in the vicinity of the proposed development are shown on Figure 2 of the AA screening report submitted and the QIs/SCIs of the European sites in the vicinity of the proposed development are provided in Appendix I**

In carrying out my assessment I have had regard to the nature and scale of the project, the distance from the site to Natura 2000 sites, and any potential pathways which may exist from the development site to a Natura 2000 site, aided in part by the EPA Appropriate

Assessment Tool ([www.epa.ie](http://www.epa.ie)), as well as by the information on file, and I have also visited the site.

- The application site is not located within or adjacent to any European site. The nearest waterbody to the subject site is the Grand Canal, located approximately 60m to the north of the site boundary. There is an indirect hydrological connection to this waterbody via surface water drainage (during construction and operation) to European Sites located within Dublin Bay via the proposed surface water drainage strategy.
- There is also an indirect hydrological connection to European Sites within Dublin Bay via foul wastewater drainage. Foul wastewater will be directed to an existing public foul network, which in turn discharges to Ringsend Wastewater Treatment Plant (WwTP) for treatment.
- In relation to hydrogeology, the AA Screening Report notes that the bedrock aquifer underlying the proposed site is described as a 'Locally Important Aquifer - Bedrock which is Moderately Productive only in Local Zones'. The groundwater vulnerability underlying the site is largely 'moderate' but with a small area at the southern end of the site in the 'high' category. The Dublin groundwater body is currently classified by the EPA as having 'Good Status' and is 'not at risk'. There is only one European site within the Dublin groundwater body designated for groundwater dependent terrestrial habitats and species, Rye Water Valley/Carlton SAC, **c. 14.5km west (and upstream via different watercourses)** of the proposed development site.

Using the source-pathway-receptor model, foul waters and surface water from the proposed development will ultimately drain to Dublin Bay, located to the east of the proposed development site, and therefore may indirectly have an impact. Therefore, the European sites with qualifying interests, which are potentially linked to the proposed development are South Dublin Bay SAC (site code: 000210), North Dublin Bay SAC (site code: 000206), South Dublin Bay and River Tolka Estuary SPA (site code: 004024) and North Bull Island SPA (site code: 004006).

#### Conclusion on the extent of the Zone of Influence

The proposed development lies within the Dublin **Groundwater Body** (Dublin GWB) and the only European site within this groundwater body that is designated for groundwater dependent habitats and/or species is the Rye Water Valley/Carlton SAC, located c. 14.5km west of the proposed development. The AA Screening Report refers to information published by Geological Survey Ireland (GSI) on the Dublin GWB which states that 'The



general groundwater flow direction in this aquifer is towards the coast and also towards the River Liffey and Dublin City'. I concur then with the conclusion in the AA Screening Report which states that, as the proposed development is separated from the Rye Water Valley/Cartron SAC by several waterbodies and located downstream of the SAC, it cannot influence groundwater conditions in the European site.

In applying the 'source-pathway-receptor' model, in respect of potential indirect effects, I would accept that all sites outside of Dublin Bay can be screened out for further assessment at the preliminary stage based on a combination of factors including the minimal effluent discharge from the proposed development works (to be treated at Ringsend WWTP and discussed further below), the intervening minimum distances and the lack of direct hydrological pathway or biodiversity corridor link to these conservation sites and the dilution effect with surface water runoff and following this, sweeter. Furthermore, in relation to the potential connection to sites in the outer Dublin Bay area, I am satisfied that the distance to the boundary of the North Dublin Bay SAC and the North Bull Island SPA are not within the downstream receiving environment of the proposed development given the nature and scale of the proposed development, the insignificant loading in terms of either surface water or wastewater, the intervening distances (c. 7.5km) and the significant marine buffer and dilution factor that exists between the sites. I conclude that it is reasonable to conclude on the basis of the available information that the potential for likely significant effects on these sites can be excluded at the preliminary stage.

Having regard to the foregoing, my screening assessment will focus on the impact of the proposal on the conservation objectives of the European Sites and their qualifying interests as summarised in the table 1 below. I am satisfied that no other European Sites fall within the possible zone of influence.

### **3. European Sites at risk**

Having regard to the potential ZOI and the submitted AA document, the following Natura 2000 sites are identified as requiring further consideration for potential impacts due to possible indirect hydrological connections between the development and the European Sites in Dublin Bay via the surface water drainage network and the foul sewer network:

- South Dublin Bay SAC (000210)
- South Dublin Bay and River Tolka Estuary SPA (004024)

The Qualifying Interests of the South Dublin Bay SAC (000210) and South Dublin Bay and River Tolka Estuary SPA (004024) are described under Table 1 below. A brief description is also provided.

Their current conservation status, attributes, measures and targets are expanded upon in Appendix 1 the applicant's submitted document.

**Table 1 European Sites at risk from impacts of the proposed project**

<b>Effect mechanism</b>	<b>Impact pathway/Zone of influence</b>	<b>European Site(s)</b>	<b>Qualifying interest features at risk</b>
Habitat degradation as a result of hydrological impacts  Habitat Loss and Fragmentation	Indirect pathway to Dublin Bay through public combined sewer	<b>South Dublin Bay SAC (site code: 000210)</b>	Mudflats and sandflats not covered by seawater at low tide.  Annual vegetation of drift lines  Salicornia and other annuals colonising mud and sand  Embryonic shifting dunes
Habitat degradation as a result of hydrological impacts  Habitat Loss and Fragmentation	Indirect pathway to Dublin Bay through public combined sewer	<b>South Dublin Bay &amp; River Tolka SPA (site code: 004024)</b>	Light-bellied Brent Goose Oystercatcher  Ringed Plover  Grey Plover  Knot  Sanderling  Dunlin  Bar-tailed Godwit Redshank  Black-headed Gull Roseate Tern

			Common Tern Artic Tern Wetlands
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#### **South Dublin Bay SAC (site code: 000210)**

This site is comprised of an intertidal site with extensive areas of sand and mudflats. The sediments are predominantly sands but grade to sandy muds near the shore at Merrion Gates. The main channel which drains the area is Cockle Lake. The site is a Special Area of Conservation (SAC) selected for the following habitats and/or species listed on Annex I / II of the E.U. Habitats Directive (\* = priority; numbers in brackets are Natura 2000 codes): [1140] Tidal Mudflats and Sandflats [1210] Annual vegetation of drift lines [1310] Salicornia and other annuals colonising mud and sand [2110] Embryonic shifting dunes. The bed of Dwarf Eelgrass (*Zostera noltii*) found below Merrion Gates is the largest stand on the east coast. Green algae (*Enteromorpha* spp. and *Ulva lactuca*) are distributed throughout the area at a low density. Furoid algae occur on the rocky shore in the Maretimo to Dún Laoghaire area. Species include *Fucus spiralis*, *F. vesiculosus*, *F. serratus*, *Ascophyllum nodosum* and *Pelvetia canaliculata*. Several small, sandy beaches with incipient dune formation occur in the northern and western sectors of the site, notably at Poolbeg, Irishtown and Merrion/ Booterstown. A small area of pioneer saltmarsh now occurs in the lee of an embryonic sand dune just north of Booterstown Station. This site is a fine example of a coastal system, with extensive sand and mudflats, and incipient dune formations. South Dublin Bay is also an internationally important bird site.

#### **South Dublin Bay and River Tolka Estuary SPA (004024)**

The South Dublin Bay and River Tolka Estuary SPA comprises a substantial part of Dublin Bay. It includes the intertidal area between the River Liffey and Dun Laoghaire, and the estuary of the River Tolka to the north of the River Liffey, as well as Booterstown Marsh. A portion of the shallow marine waters of the bay is also included. The site is a Special Protection Area (SPA) under the E.U. Birds Directive, of special conservation interest for the following species: Light-bellied Brent Goose, Oystercatcher, Ringed Plover, Grey Plover, Knot, Sanderling, Dunlin, Bar-tailed Godwit, Redshank, Black-headed Gull, Roseate Tern, Common Tern and Arctic Tern. The E.U. Birds Directive pays particular

attention to wetlands, and as these form part of the SPA, the site and its associated waterbirds are of special conservation interest for Wetland & Waterbirds.

The site is an important site for wintering waterfowl, being an integral part of the internationally important Dublin Bay complex. Although birds regularly commute between the south bay and the north bay, recent studies have shown that certain populations which occur in the south bay spend most of their time there. An internationally important population of Light-bellied Brent Goose occurs regularly and newly arrived birds in the autumn feed on the Eelgrass bed at Merrion. At the time of designation, the site supported nationally important numbers of a further nine species: Oystercatcher, Ringed Plover, Grey Plover, Knot, Sanderling, Dunlin, Bartailed Godwit, Redshank and Black-headed Gull. Other species occurring in smaller numbers include Great Crested Grebe, Curlew and Turnstone. Little Egret, a species which has recently colonised Ireland, also occurs at this site. South Dublin Bay is a significant site for wintering gulls, with a nationally important population of Black-headed Gull, but also Common Gull and Herring Gull. Mediterranean Gull is also recorded from here, occurring through much of the year, but especially in late winter/spring and again in late summer into winter. Both Common Tern and Arctic Tern breed in Dublin Docks, on a man-made mooring structure known as the E.S.B. dolphin – this is included within the SPA.’

#### **4.. Likely significant effects on the European site(s) ‘alone’**

I refer the Board to Section 3.3 of the AA which details the *Assessment of Effects on European Sites*

Taking account of the characteristics of the proposed development in terms of its location and the scale of works, the following issues are considered for examination in terms of implications for likely significant effects on the South Dublin Bay and River Tolka Estuary SPA (Site Code 004024) and South Dublin Bay SAC (Site Code 000210) relate to:

- Habitat degradation as a result of Hydrological & Hydrogeological impacts
- Habitat Loss and Fragmentation

It is considered that there is nothing unique or particularly challenging about the proposed urban development, either at construction or operational phase.

Table 2: Could the project undermine the conservation objectives 'alone'			
European Site and qualifying feature	Conservation objective (summary) [provide link/ refer back to AA Screening Report]	Could the conservation objectives be undermined (Y/N)?	
		Habitat degradation as a result of Hydrological or Hydrogeological Impacts	Habitat Loss and Fragmentation
South Dublin Bay SAC (site code: 000210)	<a href="#">South Dublin Bay SAC   National Parks &amp; Wildlife Service (npws.ie)</a>		
Mudflats and sandflats not covered by seawater at low tide.	MFC  The permanent habitat area is stable or increasing, subject to natural processes	N	N
South Dublin Bay & River Tolka SPA (site code: 004024)	<a href="https://www.npws.ie/protected-sites/spa/004024">https://www.npws.ie/protected-sites/spa/004024</a>		
Light-bellied Brent Goose	MFC	N	N
Oystercatcher	MFC	N	N

Ringed Plover	MFC	N	N
Grey Plover	Grey Plover is proposed for removal from the list of Special Conservation Interests for South Dublin Bay and River Tolka Estuary SPA. As a result, a site-specific conservation objective has not been set for this species	N/A	N/A
Knot	MFC	N	N
Sanderling	MFC	N	N
Dunlin	MFC	N	N
Bar-tailed Godwit	MFC	N	N
Redshank	MFC	N	N
Black-headed Gull	MFC	N	N
Roseate Tern	MFC	N	N
Common Tern	MFC	N	N
Arctic Tern	MFC	N	N
Wetlands	MFC	N	N

#### Habitat degradation as a result of Hydrological or Hydrogeological Impacts

I note that standard **construction** practices and best practice construction measures, as relates to the prevention of surface water pollution at construction stage, as outlined in detail in the Construction Environmental Management Plan, would prevent polluted surface water from entering the surface water drainage network. However, even in the absence of the above measures, I note that the site is at least 5.3 km from the Ringsend WWTP to eventual discharge into the Lower River Liffey Estuary. As such the ecological connection

is weak, and I would consider that any contaminants (i.e. such as oils, hydrocarbons, silt etc) would be sufficiently dispersed and diluted by the point of entry into Dublin Bay such that likely significant effects on the Dublin Bay Natura sites can be ruled out. Similar principles apply to potential discharge to the River Poddle.

The AA Screening Report, notes that that during times of flood there is potential drainage into the Poddle via unmapped underground drains. The Poddle is located 95m west of the proposed development, however as this is entirely culverted beneath Dublin City until it discharges into the Liffey Estuary Lower 2km downstream.

In relation to **surface water impacts at operational stage**, I am satisfied that the proposed surface water drainage measures as outlined in the 'Infrastructure Design Report' and within the 'Site Specific Flood Risk Assessment' will serve to limit the quantity and improve the quality of surface water runoff. These include interception storage measures with on site-attenuation during heavy rainfall events. It is also proposed to restrict outflows from the site. These SuDS measures are proposed to reduce the quantity of surface water discharge from the site, and to improve discharge water quality. These installations have not been introduced to avoid or reduce an effect on any effect on any Natura site and would be introduced as a standard measure on such housing developments, regardless of any direct or indirect hydrological connection to a Natura 2000 site. They constitute the standard approach for construction works in an urban area. I am satisfied that the surface water design features proposed at operational stage will ensure the quality of surface water run-off will be sufficient so as not to result in any likely significant effects on any Natura 2000 within Dublin Bay, or any other Natura 2000 sites, having regard to the sites' conservation objectives. Notwithstanding, and even if these standard work practices were not employed, or should they fail for any reason, and pollutants enter Dublin Bay indirectly via the public surface water network, I am satisfied that any such contaminants would be sufficiently dispersed and diluted within the surface water network and within the estuarine/marine environment of Dublin Bay, such that likely significant effects on those Natura 2000 sites within and adjacent to Dublin Bay can be ruled out.

The Screening Report refers to a 'Hydrological and Hydrogeological Qualitative Risk Assessment Report' submitted with the application (AWN, 2023). This report, based on a conceptual site model, indicate that surface water run-off from the proposed development will not result in any perceptible impact on water quality in downstream receiving waters in

Dublin Bay (and the European Sites therein). I have considered this report as part of this assessment and concur with the conclusions therein.

In conclusion therefore, while there is an indirect connection to South Dublin Bay SAC and South Dublin Bay and River Tolka Estuary SPA via the surface water network, I am of the view that any particulates or pollutants will be diluted within the surface water network and the marine /estuarine environment of Dublin Bay and would not be seen to be at levels that would cause significant effects on the South Dublin Bay and South Dublin Bay and River Tolka Estuary SPA can be ruled out

**Water:** The development will be supplied with fresh water via a mains supply. The foul effluent associated with the proposed apartments will drain, via an existing combined sewer to the Ringsend Wastewater Treatment Plant for treatment and ultimately discharge to Dublin Bay. This Wastewater Treatment Plant is currently being upgraded, having received planning permission in 2019 to increase treatment capacity. Irish Water have reported that this system can facilitate the proposed development. There is potential for an interrupted and distant hydrological connection between the subject site and the designated sites in Dublin Bay due to the wastewater pathway. It is my view that the foul discharge from the site would be insignificant in the context of the overall licenced discharge at Ringsend Wastewater Treatment Plant, and thus its impact on the overall discharge would be negligible.

#### Habitat Loss and Fragmentation

Specifically in relation to habitat loss and fragmentation, I note the site does not overlap with the boundary of any European Site. The proposed site does not support populations of any fauna species links with the qualifying interest or special conservation interests of any European Site. I am satisfied therefore that the proposed development will not result in habitat loss or fragmentation within any European Site, or nor will it result in a loss of any ex-situ foraging or roosting site for qualifying species of European sites in the wider area.

There are no other evident impact pathways, noting in particular the lack of suitable habitats on the site for any species of conservation interest associated with any European Site and the lack of habitat suitable for any birds of special conservation interest associated with any European Site. There is no evidence the site lies in a sensitive location as regards to birds nor that the height of the buildings at a maximum of 7 storeys would pose a danger in relation to bird strike. The maximum height proposed is not significantly higher than the maximum height of existing block. I also note that the site



itself, as existing, is not deemed to represent suitable ex-situ feeding/roosting habitat for any species associated with a Natura 2000 site. As set out in the AA Screening Report, SCI species, herring gull were recorded flying over the proposed development site during breeding bird surveys. The nearest SPA to the proposed development site designated for wintering special conservation interest species is the South Dublin Bay and River Tolka Estuary SPA, located c. 4.2km east of the proposed development. While the proposed development is within the normal foraging range of SCI species of this European site it has no suitable habitat (i.e. open amenity grasslands) for wintering SCI species, such as light-bellied Brent goose. The available grasslands within the proposed development site are considered too small in size, and too enclosed by other habitats for foraging and/or roosting wintering SCI species.

I refer the Board to Table 1: *Summary of Analysis of Likely Significant Effects on European sites* of the AA screening report. I agree with the conclusion presented therein.

**5: Where relevant, likely significant effects on the European site(s) ‘in-combination with other plans and projects’**

In combination or Cumulative Effects

The applicant’s AA Screening Report has considered cumulative / in-combination impacts, including other permitted developments in the vicinity of the site, relevant plans and policies, and the potential cumulative impact on Ringsend WWTP. It concludes that no projects or plans would act in-combination with the proposed development to cause any likely significant effects on any European sites.

I acknowledge that there would be a cumulative effect with other developments as a result of increased wastewater loading on the Ringsend WWTP. However, based on the upgrade of the Ringsend Wastewater Treatment Plant; the incorporation of similar design parameters and good practice in other developments; and together with the previously discussed absence of evidence of adverse impacts on Dublin Bay as a result of nutrient over-enrichment; I am satisfied that there would be no potential for significant cumulative / in-combination effects on the relevant European Sites within Dublin Bay as a result of wastewater loading.

There would also be a cumulative effect in relation to surface water discharge. However, all other developments will be required to incorporate appropriate construction management measures and to incorporate GDSDS requirements to suitably manage the quantity and quality of surface water discharge. Accordingly, I am satisfied that there would be no

potential for significant cumulative / in-combination effects on the relevant European Sites within Dublin Bay as a result of surface water.

The Dublin City Development Plan 2022-2028 and the Development Plans for other areas in the Greater Dublin Area include a range of objectives intended to protect and enhance the natural environment, including those relating to European Sites, wastewater management, and surface water management. These objectives have themselves been subject to Appropriate Assessments, which have concluded that their implementation would not adversely affect the integrity of European sites.

It is reasonable to conclude that on the basis of the information on the file, which I considered adequate in order to issue a screening determination, that the proposed development individually or in combination with other plans or projects would not be likely to have a significant effect on South Dublin Bay and River Tolka Estuary SPA (Site Code 004024) and South Dublin Bay SAC (Site Code 000210) or any European site, in view of the sites' conservation objectives.

#### **Overall Conclusion- Screening Determination**

I conclude that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects. It is therefore determined that Appropriate Assessment (stage 2) [under Section 177V of the Planning and Development Act 2000] is not required.

I am satisfied the potential for significant effects, as a result of surface and foul waters generated during the construction and operational stages, on the qualifying interests of the applicable Natura 2000 sites (South Dublin Bay SAC and South Dublin Bay and River Tolka Estuary SPA) can be excluded having regard to the following:

- During the construction stage, surface water will be attenuated/part treated within the site and the nature of any discharges is temporary/of a relatively low volume relative to the recovering surface water and marine environments.
- Should a pollution event occur during the construction phase, due to the accidental spillage or release of contaminants, this would not be of such magnitude so as to have a significant adverse effect on downstream water quality in Dublin Bay due to the level of separation and the dilution arising from the volume of water between the sites.

- There will be an improvement in surface water run-off during the operational phase, relative to the existing situation, as surface water will be attenuated/ part treated within the site.
- Foul and surface waters will discharge to the existing combined foul and surface water network and will travel to Ringsend WWTP for treatment prior to discharge to Dublin Bay; the Ringsend WWTP is required to operate under EPA licence and meet environmental standards, further upgrade is underway and the foul discharge from the proposed development would equate to a very small percentage of the overall licenced discharge at Ringsend WWTP, and thus would not impact on the overall water quality within Dublin Bay.
- I would also note that the EPA classified water quality in Dublin Bay as 'unpolluted' in 2018.

There is no potential for impacts on the qualifying interests due to noise and other disturbance impacts during construction and operational phases given the level of separation between the sites. While there is a potential risk of noise and disturbance during construction to ex-situ qualifying species, no significant effects are predicted as it is unlikely that the qualifying species will use habitats within the subject lands and in any case the proposed development is not likely to result in a significant increase in noise and disturbance over the existing levels.

No measures intended to avoid or reduce harmful effects on European sites were taken into account in reaching this conclusion.