



An  
Bord  
Pleanála

## Inspector's Report ABP-319481-24

### Development

Construction of a mixed-use development arranged in 6-blocks 3-9 storeys in height including 330 residential units, 60 assisted living units and 5 retail units, and associated site works.

### Location

Former Cadbury's Pitch and Putt site, Oscar Traynor Road, Coolock, Dublin 5.

### Planning Authority

Dublin City Council

### Planning Authority Reg. Ref.

LRD

### Applicant

OTR Development Company Limited

### Type of Application

Permission for Large Scale Residential Development

### Planning Authority Decision

Refuse permission

### Type of Appeal

First Party

### Appellants

OTR Development Company Limited

**Observations**

(1) ORHRE Management Services  
Limited

**Date of Site Inspection**

01<sup>st</sup> July 2024

**Inspector**

Colin McBride

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## 1.0 Site Location and Description

1.1. The site, which has a stated area of 2.89 hectares, is located on the north side of Oscar Traynor Road to the north west of Coolock. The site is the former Cadbury's Pitch and Putt site. The site is bounded to the south by the Oscar Traynor Road, to the east by the Cadbury's (Mondelez Europe) Factory, to the north by the former Chiver's Jam Factory and the west by the Northside Retail Park, J and W Hire & Sales and Jennings Funeral Home. The site is relatively level and consists of grassland that was formerly used as pitch and putt course. Boundary treatment include railings along the road frontage, palisade fencing along the eastern, northern and western boundaries. The nearest residential development is 3 no. detached single-storey dwellings on the opposite side of Oscar Traynor Road to the south of the site.

## 2.0 Proposed Development

2.1. The proposed development consists of...

Construction of a development with a total gross floor area of approximately c. 39,468 sq m (including 2 no. Podiums, the first in block A of c. 1,252 sq m, the second in block E of c. 1,985 sq m and including a basement in block E of c. 2,307 sq m) will consist of the construction of a mixed-use development arranged in 6 no. blocks. The proposed development includes the provision off...

- 330 no. residential units, totalling an area of c. 28,712 sq m; 60 no. assisted living units, totalling an area of 5,042 sq m; and 5 no. retail units, totalling an area of 3,303 sq m, including a neighbourhood store totalling c. 2,538 sq m (with a c. 1,303 sq m net retail floor area), which will also provide for the sale of alcohol. In addition, the scheme provides a new community/cultural space (totalling c. 1,051 sq m, with associated external space c. 931 sq m); a childcare facility (c. 429 sq m), with associated staff and servicing areas, with ancillary outdoor play areas are to be provided and residential amenity facilities (c. 205 sq m).
- A new priority-controlled site access junction on Oscar Traynor Road is also proposed, including amendments to the Oscar Traynor Road carriageway, comprising the introduction of a right turn lane facility, signal controlled parallel

pedestrian and cycle crossing and off-road cycle tracks and alterations to existing footpaths on both side of Oscar Traynor Road.

- Block A will be 3 No. storeys in height, over podium and will comprise 36 No. apartments (including 15 no. 1-bed apartments, 9 no. 2-bed apartments and 12 no. 3-bed apartments) and 4 no. retail units at ground floor (Retail unit no. 1 – c. 209 sq m, Retail unit no. 2 – c. 134 sq m, Retail unit no. 3 – c. 209 sq m and Retail unit no. 4 – c. 213 sq m, inclusive of all staff and servicing areas);
- Block B will be 6 No. storeys in height and will comprise 60 No. assisted living units (c. 5,042 sq m), with associated communal, servicing and staff facilities;
- Block C will range in height from part 4 no. storeys to part 6 no. storeys and will comprise 51 no. apartments (35 no. 1-bed apartments, 16 no. 2-bed apartments), a childcare facility (c. 429 sq m) and a community centre (c. 243 sq m);
- Block D will range in height from part 5 no. storeys to part 6 no. storeys and will comprise 69 no. apartments (37 no. 1-bed apartments, 32 no. 2-bed apartments);
- Block E will range in height from 4 no. storeys to 9 no. storeys over 1 no. storey basement and will comprise 174 no. apartments (71 no. 1-bed apartments, 90 no. 2-bed apartments and 13 no. 3- bed apartments);
- The Neighbourhood Store block is comprised of one standalone retail unit, with a total area of c. 2,538 sq m over podium, with associated storage, access, servicing and staff facilities and 72 no. dedicated car parking spaces and deposit return scheme units.
- The proposed development also includes open space associated with the cultural/community space c. 931 sq m; communal open space c. 2,475 sq m; public open space provision c. 3,270 sq m; private balconies and terraces to be provided on all elevations at all levels as required; courtyards; roof and podium gardens; boulevards; urban plaza; amenity lawn and play areas; car parking (including basement and podium car parking facilities) totalling 264 no. car parking spaces; car club spaces; cycle parking spaces (long and short stay spaces including secure stands); motorcycle parking; storage areas; internal roads and pathways; removal of partially surviving hedgerow to the centre of the site; pedestrian access points; hard and soft landscaping, street furniture and

boundary treatments; changes in level; bin stores and waste management areas; services provision and related pipework including diversions; plant (including internal and external plant enclosures); sprinkler tanks and associated infrastructure; electric vehicle charging points; 4 no. ESB substations and associated infrastructure and switchrooms; comms rooms and meter rooms; internal lobbies, lifts and stair cores; green roofs; SUDs; retaining walls; attenuation tank; tree removal on Oscar Traynor Road to facilitate this development and wider site, tree and vegetation clearance works; car park ventilation areas; setdown areas; signage; flagpoles; PV panels; public lighting and all site development and excavation works above and below ground. Vehicular, pedestrian and cycle access to the site will be from Oscar Traynor Road.

- Provision is made in the landscaping proposals for potential future pedestrian connections that would facilitate permeability through the site to adjoining developments to the west, north and eastern boundaries, subject to agreement with those parties and/or Dublin City Council, as appropriate.”

## 2.2 Table 1: Key Figures

<b>Gross Site Area</b>	2.89 hectares
<b>Gross Floor Area</b>	39,473sqm
<b>No. of Apartments</b>	330
<b>Assisted Living Units</b>	60 (5,042sqm)
<b>Retail Unit 1</b>	209sqm
<b>Retail Unit 2</b>	134sqm
<b>Retail Unit 3</b>	209sqm
<b>Retail Unit 4</b>	213sqm
<b>Neighbourhood Store</b>	2538sqm
<b>Childcare Facility</b>	429sqm and 199sqm outdoor space
<b>Density – Total Site Area</b>	114 uph
<b>Height</b>	
<b>Neighbourhood Store Block</b>	Two-storeys
<b>Block A</b>	Four-storeys
<b>Block B</b>	Six-storeys
<b>Block C</b>	Six-storeys
<b>Block D</b>	Six-storeys

<b>Block E</b>	Nine-storeys
<b>Plot Ratio</b> <b>Site Coverage</b>	1.63 37%
<b>Public Open Space</b>  <b>Communal Open Space Provision</b>	3,270sqm (2,980sqm minimum required)  2,475sqm (2,011sqm minimum required)
<b>Car Parking</b> <b>Motorbike Spaces</b>	264 9
<b>Bicycle Parking</b>	792

**Table 2: Unit Mix**

	<b>1 Bed</b>	<b>2 Bed</b>	<b>3 Bed</b>	<b>Total</b>
<b>Apartments</b>	158	147 (33 three person and 114 four person)	35	330
<b>Percentage</b>	<b>48%</b>	<b>45%</b>	<b>8%</b>	<b>100%</b>

Assisted Living Units (Block B)

	1 bed	2 bed	Total
Apartments	30	30	60

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
- LRD Opinion Response
- Planning Statement of Consistency
- Architectural and Urban Design Statement
- School Demand Assessment
- Social and Cultural Infrastructure Audit
- EIAR Screening Statement

- Design Statement
- Housing Quality Assessment Schedule
- Assisted Living Quality Assessment Schedule
- Infrastructure Design Report
- Basement Impact Assessment
- DMURS Compliance Report
- Mobility Management Plan
- Preliminary Construction Management Assessment
- Site Specific Flood Risk Assessment
- Traffic and Transportation Assessment
- Landscape Management Plan
- Landscape Planning Report
- Landscape and Visual Impact Assessment
- Appropriate Assessment Screening and Natura Impact Statement
- Aboricultural Report
- Architectural Heritage Impact Assessment
- Biodiversity Enhancement Plan
- Building Lifecycle Report
- Cultural Heritage Impact Assessment
- Daylight, Sunlight and Overshadowing Assessment
- Ecology Impact Assessment
- Energy & Sustainability, Climate Action report
- Fire Safety Strategy
- Glint and Glare Assessment
- Noise Assessment
- Operational Waste Management Plan
- Pedestrian Wind Comfort Study
- Property Management Strategy report
- Public Lighting report
- Resource and Waste Management Plan
- Retail Impact Statement



- Verified Views

### 3.0 Planning Authority Opinion

- 3.1. The planning authority and the applicant convened a meeting under section 32C of the planning act for the proposed Large-scale Residential Development on the 26<sup>th</sup> May 2023. The record of that meeting is attached to the current file.
- 3.2. Further to that meeting the planning authority issued an opinion under section 32D of the Act stating that the documents that had been submitted constitute a reasonable basis on which to make an application for permission for the proposed LRD subject to the issues raised below being addressed.
- (a) Address concerns regarding Z10 requirements for mixed-use and demonstrate that Assisted Living development is sufficiently different from residential development to comply with such.
  - (b) Details of management of Assisted Living Units and public areas.
  - (c) Demonstrate compliance with requirements of the Apartment Guidelines and the Council's Universal Access requirements.
  - (d) Ensure appropriate design measures to maximise outlook from proposed units, maximise privacy with appropriate separation distances.
  - (e) A Cultural Infrastructure (Impact) Assessment to be provided.
  - (f) A Biodiversity Diversity Enhancement Plan is to be submitted. A detailed assessment of the site as a feeding location for Brent Geese is to be carried out.
  - (g) Details of play and recreational facilities on public open space.
  - (h) Communal open space to be provided throughout the site with direct access from such by residents with questions regarding communal open space provision for Block B.

- (i) A Stage 1 Road Safety Audit is required. A taking in charge drawing, compliance with DMURS and access proposal to be fully auto tracked.
- (j) A car parking management plan is required, details of potential car share, provision of EV parking and pedestrian priority provided throughout the site.
- (k) Provision of cycle parking should account for different bike types and shower and changing facilities should be provided in commercial use buildings.
- (l) Basement Impact Assessment required.
- (m) The materials of the existing Cadbury's Factory buildings should be reflected in the architecture of the proposal.
- (n) A targeted archaeological assessment by way of test excavation should be carried out.

## 4.0 Planning Authority Decision

### 4.1. Decision

The planning authority have decided to refuse permission based on 3 reasons.

1. The applicant has failed to demonstrate to the satisfaction of the Planning Authority that the proposed 'Assisted Living Accommodation' is sufficiently different from the standard residential accommodation as a model in order to comply with the Z10 zoning objective of the site as laid out in section 14.7 of the 2022-2028 Dublin City development Plan. The zoning objective is 'To consolidate and facilitate the development of inner city and inner suburban sites for mixed use', with a requirement that a range of 30% to 70% of the area of Z10 zoned lands can be given to one particular use. In this regard the applicant has failed to demonstrate the operational model of the proposed Assisted Living; the linkages it would have with health or relevant authorities; the supports it would have on site, such as a caretaker, dining facilities, laundry room, or any specific details; or details of the management of the proposed block as distinct from general residential accommodation. It is therefore considered that the proposed development, which is predominantly residential in nature (c.85%) is not consistent with the Z10 zoning objective,

and does not provide for a mixed-use development, and would if permitted set an undesirable precedent for the redevelopment of Z10 lands in the City, and as such is contrary to the proper planning and sustainable development of the area.

2. The applicant has failed to demonstrate to the satisfaction of the Planning Authority that the integrity of the North Bull Island SPA (4006), South Dublin Bay and River Tolka Estuary SPA (4024) and Baldoyle Bay SPA (4016) will not be adversely affected, particularly when considering in-combination effects of other projects. The NIS submitted fails to provide scientific evidence based on robust data analysis to objectively conclude that the loss of the Cadbury's Pitch & Putt site as a result of development, has not, and will not have, a significant negative effect on the Light-bellied Brent Goose population of Dublin Bay. The potential risk of disturbance and displacement of SCI species, especially Light-bellied Brent Geese, from the proposed development site should have been brought forward for detailed consideration including in-combination effects of ex-situ site loss, and potential population level effects, in Stage 12 of the AA process, ie. Considered in detail in the NIS.
  
3. The proposed development fails to provide an adequate standard of residential amenity for future occupants of the scheme within Block D and Block E, which fail to meet the minimum standards as set out in Appendix 16 Sunlight and Daylight of the Dublin City Development Plan 2022-2028 and the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2023). In absence of robust compensatory measures, the proposed development would therefore result in an poor level of residential amenity for future occupants of the development and is, therefore, considered to be contrary to the provisions of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2023), the Dublin City Development Plan 2022-2028 and the proper planning and sustainable development of the area.

## 4.2. Planning Authority reports

### 4.2.1. Planning Reports

#### Planners report

Principle of Development: The proposed uses including residential assisted living and retail uses are all permissible uses under the Z10 zoning objective.

Assisted Living Units: The Planning report considers that the Assisted Living is not significantly different from standard residential accommodation and the proportion of mixed-use development on site does not comply with the Z10 zoning objective.

Retail Use: Proposal for retail use at this location is consistent with zoning objective and with the level of retail proposed considered to be acceptable.

#### Cultural & Community Use:

It is noted that clarity is required of future uses and that some of the space designed for such is external space with Objective CUO25 requiring predominantly internal floorspace.

#### Apartment Units:

Density (c.114) is considered acceptable in principle.

Plot Ratio and Site Coverage are within the ranges specified under the CDP.

The Apartments meet the minimum specifications of the Apartment Guidelines and CDP.

Unit mix proposed is acceptable and in accordance CDP and the Apartment Guidelines.

The apartment sizes meet the requirements of the Apartment Guidelines in terms of exceeding minimum standards by 10% and Development Plan policy on Universal Design.

The requirement to provide for 50% of the dual aspect units in accordance with the CDP and Apartment Guidelines is met.

Floor to ceiling heights proposed area acceptable.

Provision of lift and storage cores comply with SPPR 6 of the Apartment Guidelines.

Storage provision complies with CDP and Apartment Guidelines.

Private open space provision complies with minimum requirements.

Provision of communal and public open space is acceptable in terms of quantity and quality.

Provision for childcare is in accordance with Development Plan policy.

Concerns are raised regarding daylight and sunlight levels in units with Blocks D and E with such not considered to reach the sufficient standards.

No adverse impact on daylight and sunlight to neighbouring residential properties on the opposite side of Oscar Traynor Road.

Visual Impact: There are concerns regarding the overall visual impact of the six-storey apartment blocks in conjunction with the nine-storey Block E, which are considered to be overbearing and overly dominant when viewed from Oscar Traynor Road.

Drainage The site is within Flood Zone C and no objection has been raised by the Drainage Planning, Policy and Development Control Section. Subject to conditions.

Transportation: The Transportation Planning Division have raised no objection subject to conditions.

Permeability: Provision is made for future connections to adjoining lands.

Archaeology: Conditions are recommended in the event of a grant of permission.

Air and Noise: The EHO recommend a number of conditions.

Part V: A Part V condition is required.

Construction Management Plan: A Preliminary Construction Management Plan has been submitted; a finalised CMP is required to be agreed prior to the commencement of development subject to condition.

Appropriate Assessment/NIS: The NIS submitted fails to demonstrate that the proposal would not have a significant negative effect on the Light-bellied Brent Goose population of Dublin Bay.

EIA: The need for Environmental Impact Assessment can be excluded at preliminary examination.

Conclusion: The level of mixed uses to residential does not comply with the Z10 zoning objectives, the proposal is deficient in daylight and sunlight levels to units in Block D and E, and the NIS fails to demonstrate that the proposal would have no significant negative effects on would not have a significant negative effect on the Light-bellied Brent Goose population of Dublin Bay.

Recommendation: Refusal was recommended based on the 3 reasons outlined above.

#### 4.2.2 Other technical reports:

Archaeology Section: A condition is recommended including an archaeological assessment.

Drainage Division: No objection subject to conditions.

EHO: Conditions to be applied in the event of grant of permission.

Parks, Biodiversity & Landscape Services: Concerns raised regarding potential to have significant negative effect on Light-bellied Brent Goose, which is qualifying interest of a number for designated sites in terms of in-combination effects. Land management changes to ecologically sensitive sites would set an undesirable precedent.

Transportation Planning Section: No objection subject to conditions including agreement in writing regarding the proposed signalised pedestrian crossing on Oscar Traynor Road, carrying out a Stage 2 Road Safety Audit and car parking spaces not to be sold with units.

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

National Transport Authority: Proposal broadly consistent with land use planning principles of the Transport Strategy. Concern regarding the tie between proposed cycle path infrastructure along the road frontage and proposed future cycle path provision as part of the Active Travel Scheme for Oscar Traynor Road. Provision of more Sheffield stand type cycle parking for long stay. Car parking ratio is considered acceptable however level of car sharing spaces (2) is considered low and should be reconsidered.

Department of Heritage, Housing and Local Government (Development Applications Unit): It is noted that the NIS fails to evaluate whether the loss of Cadbury's Pitch and Putt Course as a foraging site for Light-Bellied Brent Goose might not have an adverse effect on this Special Conservation Interest (SCI) or Qualifying Interest (QI) of species for several nearby SPA's. It was acknowledged that the site had previously been used by the Light-Bellied Brent Goose for foraging and the possibility of adverse effects on this species were screened out at Stage 1 with no

evaluation of such effects during the Stage 2 Appropriate Assessment carried out (NIS).

The submission notes the nature of the issues dealt with at Stage 2 of the Appropriate Assessment (indirect hydrological connection and impact of silt, sediments, pollutants in terms of surface water and foul water drainage, and mitigation measures proposed) and raise no objection to conclusions drawn in the NIS on this matter.

The submission notes the contents of the Parks Department report, the submitted NIS and the applicants/appellants' response to the appeal. The Department state that the potential effects on the Light-Bellied Brent Goose population as a result of the proposed development and possible effects on the integrity of the nearby SPAs for which such species is a SCI should have been analysed at Stage 2 Appropriate Assessment. The Department recommend that the Board in considering the appeal in relation to the refusal reason concerning Light-Bellied Brent Goose take account of the Department's observation.

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

4.4.1. Several third-party submissions were received. The issues raised can be summarised as follows...

- Inappropriate height and scale, traffic impact with existing congestion in the area and lack of public transport, insufficient community and education infrastructure, loss of green space/recreational facilities, impact on biodiversity, potential flood risk, non-compliance with mixed use zoning, , retail impact with in terms of adjoining retail development, inadequate equality of frontage design along Oscar Traynor Road, lack of archaeological consideration, lack of community and cultural facilities..



## 5.0 Planning History

5.1 No planning history on site.

Adjoining sites...

5.2 TA29N.304346: Permission granted to demolish existing building and construction of 495 no. build to rent apartments, crèche café, gym and associated site works on the site immediately to north. Development consisted of 4 no. blocks ranging in height from 4-10 storeys. (Granted 13/08/19).

## 6.0 Policy Context

### 6.1 National Policy

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

In terms of National Planning Policy, Project Ireland 2040: National Planning Framework (NPF) seeks to deliver on compact urban growth. Of relevance, objectives 33 and 35 of the NPF seek to prioritise the provision of new homes at locations that can support sustainable development and seeks to increase densities in settlements, through a range of measures.

#### 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:

- The Planning System and Flood Risk Management (including the associated Technical Appendices) (2009).
- 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').

- Sustainable Residential Development and Compact Settlements: Guidelines for Planning Authorities (2024).
- Retail Planning Guidelines for Planning Authorities (2012)

#### Other National Guidance

##### Design Manual for Urban Roads and Streets

##### Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities' (Apartment Guidelines)

Section 2.4 Identification of the types of location in cities and towns that may be suitable for apartment development, will be subject to local determination by the planning authority, having regard to the following broad description of proximity and accessibility considerations:

2. Intermediate Urban Locations Such locations are generally suitable for smaller-scale (will vary subject to location), higher density development that may wholly comprise apartments, or alternatively, medium-high density residential development of any scale that includes apartments to some extent (will also vary, but broadly >45 dwellings per hectare net), including:

- Sites within or close to i.e. within reasonable walking distance (i.e. up to 10 minutes or 800-1,000m), of principal town or suburban centres or employment locations, that may include hospitals and third level institutions;
- Sites within walking distance (i.e. between 10-15 minutes or 1,000- 1,500m) of high-capacity urban public transport stops (such as DART, commuter rail or Luas) or within reasonable walking distance (i.e. between 5-10 minutes or up to 1,000m) of high frequency (i.e. min 10 minute peak hour frequency) urban bus services or where such services can be provided;
- Sites within easy walking distance (i.e. up to 5 minutes or 400-500m) of reasonably frequent (min 15 minute peak hour frequency) urban bus services.

The range of locations is not exhaustive and will require local assessment that further considers these and other relevant planning factors.

Sustainable Residential Development and Compact Settlements: Guidelines for Planning Authorities (2024).

Table 3.1 - Areas and Density Ranges Dublin and Cork City and Suburbs

City - Urban Neighbourhoods

The city urban neighbourhoods category includes: (i) the compact medium density residential neighbourhoods around the city centre that have evolved overtime to include a greater range of land uses, (ii) strategic and sustainable development locations<sup>7</sup>, (iii) town centres designated in a statutory development plan, and (iv) lands around existing or planned high-capacity public transport nodes or interchanges (defined in Table 3.8) – all within the city and suburbs area. These are highly accessible urban locations with good access to employment, education and institutional uses and public transport. It is a policy and objective of these Guidelines that residential densities in the range 50 dph to 250 dph (net) shall generally be applied in urban neighbourhoods of Dublin and Cork.

#### Section 5.3.7 Daylight

“In drawing conclusions in relation to daylight performance, planning authorities must weigh up the overall quality of the design and layout of the scheme and the measures proposed to maximise daylight provision, against the location of the site and the general presumption in favour of increased scales of urban residential development. Poor performance may arise due to design constraints associated with the site or location and there is a need to balance that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and or an effective urban design and streetscape solution”.

Retail Planning-Guidelines for Planning Authorities

## Section 4.4 Sequential Approach to Location of Retail Development

Where the location of a proposed retail development submitted on a planning application has demonstrated to the satisfaction of the planning authority that it complies with the policies and objectives of a development plan and/or relevant retail strategy to support city and town centre, additional supporting background studies such as a demonstration of compliance with the sequential approach, below, or additional retail impact studies are not required.

## 6.2 Local

### 6.2.1 Dublin City Development Plan 2022-2028

The site zoned Z10 with a stated objective ‘to consolidate and facilitate the development of inner city and inner suburban sites for mixed-uses’.

The main policies /objectives are set out below. This is not an exhaustive list and should not be read as such. The Board should consider inter alia the following:

Section 2.2.3 Settlement Strategy

Section 2.2.6 Public transport.

Chapter 4 Shape and Structure of the City.

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

Chapter 5

Housing QHSN3 (Housing Strategy & HNDA), QHSN10 (urban density), QHSNO11 (universal design), QHSN26 (High Quality Apartment Development), QHSN47(High Quality Neighbourhood and Community Facilities),

Under housing policy QHSN2 of the Development Plan, the Planning Authority will have regard to various Ministerial Guidelines, a number of which are listed in Section 6.1 above. Policy QHSN10 of the Development Plan promotes sustainable densities with due consideration for design standards and the surrounding character. Further guidance regarding urban density is set out in Development Plan appendix 3 - Achieving Sustainable Compact Growth: Policy for Density and Building Height in the City. Indicative plot ratios and site coverage percentages are listed in table 2 of this appendix. The Development Plan includes a host of policies addressing and promoting apartment developments, including policies QHSN36, QHSN37, QHSN38 and QHSN39.

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. Policies CUO25 and CUO31 of the Development Plan set out the Planning Authority's approach with regards community, artist and cultural spaces, including provision for same in large-scale developments and communities -CUO25 (SDRAs and Large-Scale Developments), CUO31 (Artist Workspaces).

Other relevant sections of the Development Plan include:

Section 4.5.2 - Approach to the Inner Suburbs and Outer City as Part of the Metropolitan Area (policy SC8);

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

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

Section 5.5.2 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);

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.

Appendix 4 Parking.

Appendix 13 Guidelines for Childcare Facilities.

Appendix 16 Sunlight and Day Light.

Density (Appendix 3) As a general rule, the following density ranges will be supported in the city.

Table 1:

Outdoor Suburbs	60-120
-----------------	--------

CU025:

SDRAs and Large Scale Developments

All new regeneration areas (SDRAs) and large scale developments above 10,000 sq. m. in total area\* must provide at a minimum for 5% community, arts and culture spaces including exhibition, performance, and artist workspaces predominantly internal floorspace as part of their development at the design stage. The option of relocating a portion (no more than half of this figure) of this to a site immediately

adjacent to the area can be accommodated where it is demonstrated to be the better outcome and that it can be a contribution to an existing project in the immediate vicinity. The balance of space between cultural and community use can be decided at application stage, from an evidence base/audit of the area. Such spaces must be designed to meet the identified need.

\*Such developments shall incorporate both cultural/arts and community uses individually or in combination unless there is an evidence base to justify the 5% going to one sector.

Section 15.13.7 :

“In general, the density and number of dwellings to be provided within residential schemes should be determined with reference to Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas 2009. Development should also be consistent with the policies and objectives set out in Chapter 3 Sustainable Placemaking and Quality Homes and should promote appropriate densities, having regard to factors including the location of the site, accessibility to public transport and the principles of sustainability, compact growth and consolidation”.

Section 15.9.16.1 Daylight and Sunlight

A daylight and sunlight assessment should be provided to assess the impact of the proposed development on the surrounding properties and amenity areas outside the site boundary and assess the daylight and sunlight received within each individual unit and communal areas of a proposed scheme.

A best practice guide for the assessment and methodology of Daylight and Sunlight Assessments is set out in Appendix 16.

### **6.3 Natural Heritage Designations**

North Dublin Bay SAC (000206) 3.2km south.

Baldoyle Bay SAC (000199) 4.2km to the north.

North Bull Island SPA (004006) 3.2km.

South Dublin Bay and River Tolka Estuary SPA (4024) 3.4km.

## **7.0 The Appeal**

### **7.1 Grounds of Appeal**

7.1.1 A first party appeal has been lodged by OTR Development Company Limited. The grounds of appeal are as follows...

- To address refusal reason no.s 1 and 3 modified plans have been submitted In relation Assisted Living proposal Block B has been revised to provide additional operational elements for such at ground floor level and includes replacing 2 no. retail units with re-located community/cultural floorspace. Amendments have been made to the elevational treatment of Block D and E to address daylight levels.
- In response to refusal reason no. 1 the appellant considers that the classification of assisted living as residential is incorrect and that the proposal does comply with the Z10 restriction on the percentage of a single use. Assisted Living is clearly defined in the current Development Plan as restricted to certain use, centrally management and operated as a commercial use. The proposed use was discussed at pre-application consultation stage with no objections and the applicant providing a detail written rationale for the use as requested by the Planning Authority. The Z10 zoning matrix identifies assisted living as a separate use other than residential. The applicants/appellants have revised the proposal to provide for additional support accommodation including enhanced reception and security area, communal dining, a laundry room, physio and occupational therapy space, nurses station as well as additional communal amenity space at upper floors. The Development Plan has no stated requirements for a future operator of such to be identified and Development policy encourage the provision of assisted living/accommodation for older people with a number of policies and



objectives identified. The applicant has made effect to contact potential operators and has received letters confirm widespread interest and support from the HSE and potential operators of assisted living units.

- In response to refusal reason no. 2 reject the conclusion of such. The NIS submitted concludes that the integrity of the North Bull Island SPA, South Dublin Bay and River Tolka Estuary SPA and Baldoyle Bay SPA will not be adversely affected. The information submitted by the applicant including site-specific surveys for 2020-2024 demonstrate the site is not being used by Light-bellied brent geese. In terms of impact there is an abundance of foraging sites for such and there is no evidence to suggest that the population of such is adversely affected or that cessation of
- In response to refusal reason no. 3 and updated report has been submitted outlining how the daylight and sunlight exposure to units with Block D and E has been increased and compensatory measures included as part of the scheme. Amendments have been submitted that improve daylight levels and such can be incorporated by way of condition. The daylight and sunlight levels to the other blocks remains unchanged and meet the relevant standards.
- The grounds of appeal response to other issue raised in the Planning Assessment but not in the formal reason for refusal. These include the fact the proposal includes active frontage along public realm routes, provision of the cultural space located along the main public realm route through the site and consisting of a series of different internal and external spaces, the fact that balcony areas will not be impacted by ventilation from the car park with no meaningful visibility of such from the balconies. The proposal is appropriate in height, scale and overall design.

## **7.2 Planning Authority Response**

### **7.2.1 Response by Dublin City Council**

- Dublin City Council request that the Board uphold the decision to refuse permission. It is requested that if the Board is minded to grant permission that a number of conditions are included in relation to Section 48 Development

Contribution, payment of a bond, a social housing condition naming and numbering condition and a management company condition.

### **7.3 Observations**

7.3.1 An observation has been received from ORHRE Management Services Limited.

- The observation is on behalf of the owners of Northside Retail Park located immediately adjacent the site. The proposal has the potential to have a detrimental impact on vitality and viability of the existing Z3 Neighbourhood Centre zoned lands on which the observers' property is located.
- The observers concur with refusal reason no. 1 and consider that the proposed mix on site does not comply with the Z10 zoning objective.
- In relation to refusal reason no. 2 the observers point to the fact that the AA screening does provide indication of use of the site by brent geese and that there is potential risk of the disturbance and displacement of protected species from the site. The observers concur with the conclusions of refusal reason no. 2.
- In relation to refusal reason no. 3 the observers note amendments made and updated report submitted. The observers consider that rooms in Blocks D and E will still have a poor level of amenity and there are shortcomings in the daylight, sunlight and overshadowing assessment.
- The observers raise concerns regarding the retail provision and its impact on future viability of the Northside Retail Park with a lack of justification provided for additional retail at a Z10 zoned site.
- The provision of community, arts and cultural spaces on site do not include assigned specific uses and are not based on required community/social audits and demonstrate non-compliance with the relevant policies of the CDP.
- The LRD Opinion identified a requirement for targeted archaeological assessment by way of test excavation. The applicant has not complied with this requirement of Council's LRD Opinion.

## **8.0 Screening**

### **8.1 Environmental Impact Assessment**

8.1.1 This application was submitted to the Board after the 1st of September 2018 and therefore after the commencement of the European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018 which transpose the requirements of Directive 2014/52/EU into Irish planning law.

8.1.2 Item 10(b)(i) and (iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001 as amended, and section 172(1)(a) of the Planning and Development Act 2000 as amended provides that an EIA is required for infrastructure developments comprising of urban development which would exceed:

- 500 dwellings
- Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere. A business district is defined as ‘a district within a city or town in which the predominant land use is retail or commercial use’.

8.1.3 Item (15) (b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 as amended provides that an EIA is required for: “Any project listed in this part which does not exceed a quantity, area or other limit specified in this Part in respect of the relevant class of development but which would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7.”

8.1.4 The proposed development is for a residential scheme of 390 dwelling units (60 assisted living apartments, 5 no. retail units and a childcare facility and is not within a business district with a mixed character to the area including recreational, industrial, retail and residential, on a stated development site area of 2.89ha. It is sub-threshold in terms of EIA having regard to Schedule 5, Part 2, 10(b) (i) and (iv) of the Planning and Development Regulations 2001 as amended, in that it is less than 500

units and is below the size site threshold levels (not in a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere).

8.1.5 The application was accompanied by an EIA Screening Report which includes the information set out in Schedule 7A to the Planning and Development Regulations 2001 as amended and I have had regard to same. The report states that the development is below the thresholds for mandatory EIAR having regard to Schedule 5 of the Planning and Development Regulations 2001, due to the site size, number of residential units (390) and the concludes that the proposal is unlikely to give rise to significant environment effects, so an EIAR is not required.

8.1.6 I have completed an EIA screening assessment as set out in Appendix A of this report. I am satisfied that sufficient information is available to reach a conclusion in regard to screening for Environmental Impact Assessment including the submissions by the applicant, the submission of prescribed bodies and third-party observations. I consider that having regard to the nature and scale of development proposed in conjunction with the habitats/species on site and in the vicinity that the proposal would not be likely to have significant effects on the environment. The proposed development does not have the potential to have effects the impact of which would be rendered significant by its extent, magnitude, complexity, probability, duration, frequency or reversibility. In these circumstances, the application of the criteria in Schedule 7 to the proposed sub-threshold development demonstrates that it would not be likely to have significant effects on the environment, at construction and operational stages of the development, and that an environmental impact assessment is not required before a grant of permission is considered. This conclusion is consistent with the EIA Screening Statement submitted with the application. A Screening Determination should be issued confirming that there is no requirement for an EIAR based on the above considerations.

## 8.2 **Appropriate Assessment**

### 8.2.1 **Applicant's Stage 1 – Appropriate Assessment Screening**

8.2.2 The applicants Natura Impact Statement includes an appropriate assessment screening report. I have had regard to the contents of same.

8.2.3 The subject lands are described in section 3 of this report. The site is not directly connected with, or necessary to the management of a Natura 2000 sites. The zone of influence of the proposed project would be limited to the outline of the site during the construction phase. The proposed development is therefore subject to the provisions of Article 6(3).

8.2.4 The screening report identifies 19 European Sites within the potential zone of influence.

<b>Name</b>	<b>Site Code</b>	<b>Distance from Site</b>
North Dublin Bay SAC	000206	3.2km
Baldoyle Bay SAC	000199	4.2km
South Dublin Bay SAC	000210	5.8km
Malahide Estuary SAC	000205	6.9km
Howth Head SAC	000202	7.2km
Rockabil to Dalkey Island SAC	003000	8km
Irelands Eye SAC	002193	9km
Rogerstown Estuary SAC	000208	11.6km
Lambay Island SAC	000204	15.3km
North Bull Island SPA	004006	3.2km
South Dublin Bay and River Tolka Estuary SPA	004024	3.4km

Baldoyle Bay SPA	004016	4.6km
North-west Irish Sea SPA	004326	6.3km
Malahide Estuary SPA	004025	6.9km
Irelands Eye SPA	004117	8.7km
Howth Head Coast SPA	004113	9.6km
Rogerstown Estuary SPA	004015	12km
Dalkey Islands SPA	004172	14.5km
Lambay Island SPA	004069	15.2km

Connectivity-Source-Pathway-Receptor: The submitted AA Screening Report makes full consideration of the Connectivity-Source-Pathway-Receptor model for each of the identified sites with no significant connectivity noted between the site and 17 of 19 sites.

Name	Screening	Source-Pathway-Receptor
Baldoyle Bay SAC	Out	Indirect hydrological pathway through foul and surface water drainage. Wastewater to Ringsend WWTP and no risk of silt or contamination surface water without mitigation due to dilution factor.*
South Dublin Bay SAC	Out	As above *
Malahide Esturay SAC	Out	As above *
Howth Head SAC	Out	As above *
Rockabil to Dalkey Island SAC	Out	As above *
Ireland Eye SAC	Out	As above *

Rogerstown Esturary SAC	Out	As above *
Lambay island SAC	Out	As above *
South Dublin Bay and River Tolka Estuary SPA	Out	As above and on the basis that use of the site as an ex-situ foraging area has all but ceased since 2015 with Brent Geese utilising other sites within the wider Dublin area for foraging. **
Baldoye Bay SPA	Out	As above **
Malahide Estuary SPA	Out	As above **
Ireland Eye SPA	Out	As above *
Howth Head Coast SPA	Out	As above *
Rogerstown Estuary SPA	Out	As above **
Dalkey Island SPA	Out	As above *
Lambay Island SPA	Out	As above *

8.2.5 Two sites were identified as having some connection in terms of source-pathway connection.

Name	Screening	Source-Pathway-Receptor
North Dublin Bay SAC	In	Indirect hydrological pathway from the proposed development site to this SAC via foul and surface water

		<p>drainage. Surface water drainage to the existing public surface water sewer, which discharges to the Santry River with outfall at North Dublin Bay. In the absence of mitigation, there is the potential for silt and contaminated surface water runoff to enter the Santry River (via existing public surface water networks) with the potential for downstream impacts on this SAC. Mitigation measures are required to protect this SAC from significant effects.</p> <p>No mitigation measures required in relation foul water with discharged to a licensed WWTP*.</p>
North Bull Island SPA	In	<p>As above*.</p> <p>Use of the site as an ex-situ foraging area has all but ceased since 2015 with Brent Geese utilising other sites within the</p>



		wider Dublin area for foraging.
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8.2.6 No direct adverse effects are anticipated with no direct loss, fragmentation or disturbance of Annex I habitats or Annex II species listed as qualifying interest of the Natura 2000 sites.

8.2.7 In terms of indirect effects there is hydrological connection to nearby Natura 2000 sites through the surface water drainage with the potential for discharge of silt, sediment and pollutions to surface water. The applicant considers there is potential for significant effects on the two nearest Natura 2000 sites (North Dublin Bay SAC and North Bull Island SPA) through deterioration of water quality without mitigation measures. Effects on other Natura 2000 sites are ruled out based on dilution factor. No adverse effects through foul water drainage due to discharge to a licensed WWTP. Adverse effects on the Light-Bellied Brent Goose (QI of a number of Natura 2000 sites in the wider area) ruled out on the basis that the site has ceased (since 2015) to be an ex-situ habitat for such due to growth of grassland swards on site.

8.2.8 The applicant reviewed other plans and projects in the area and considered that in combination effects with other existing and proposed developments in proximity to the application area would be unlikely, neutral, not significant and localised. It is concluded that no significant effects on Natura 2000 sites will be seen as a result of the proposed development alone or combination with other projects.

8.2.9 Applicant Screening Conclusion: It is concluded that there is low potential for the development to give rise to any significant effects on any designated Natura 2000 sites however a Stage 2 Appropriate Assessment is required in regard to the potential impacts on water quality due to potential for contaminated surface water runoff without mitigation in terms of Annex I habitats for the following Natura 2000 sites...

North Dublin Bay SAC

North Bull Island SPA.

### **Applicants Appropriate Assessment**

8.2.10 The applicants' screening conclusion is that there is potential for significant effects on the habitats and species that make up the qualifying interests of...

North Dublin Bay SAC

North Bull Island SPA.

The effects relate to the contamination of surface water runoff from construction and discharge to the identified Natura 2000 sites which are hydrologically connected due to surface water discharge to an existing surface water sewer on Oscar Traynor Road, which discharges to the Santry River (146m from the site), which subsequently discharges to North Dublin Bay SAC and North Bull Island SPA.

8.2.11 To avoid significant effects a number of mitigation measures are proposed (listed in Table 7 of the NIS). For surface water contamination construction management measures are proposed to prevent dust generation/dust monitoring, pollution control measures, waste, excavation, fuelling, spillages, provision of silt traps, control of oil and fuel storage, and management of plant equipment. Operational measures relate to installation of SuDs and pollution control measures.

8.2.12 In relation to in-combination effects a list of permitted and proposed development in the area is outlined. It is considered that in combination effects with other existing and proposed developments in proximity to the application area would be unlikely, neutral, not significant and localised. It is concluded that no significant effects on Natura 2000 sites will be seen as a result of the proposed development alone or combination with other projects. No projects in the vicinity of the proposed development would be seen to have a likely significant in combination effect on Natura 2000 sites.

8.2.13 It is concluded that subject to implementation of the mitigation measures outlined that the proposed development will be unlikely to have significant effects on North Dublin Bay SAC and North Bull Island SPA either individually or in-combination with other plans and projects.

### 8.3 **Appropriate Assessment Screening**

8.3.1 Description of the project: I have considered the proposal in light of the requirements of S177U of the Planning and Development Act 2000 as amended. The subject site is located in the existing built-up area and consist of a greenfield site formerly in use as a pitch and putt course. The nearest Natura 2000 sites are 3.2km away (North Dublin Bay SAC and North Bull Island SPA). The proposed development comprises the provision of 330 apartments, 60 assisted living units, 5 no. retail units and a childcare facility.

8.3.2 Potential impact mechanisms from the project: The proposal has no direct impact on any designated Natura 2000 site in terms of habitat loss or deterioration and species disturbance or mortality with the nearest site located 3.2km away. In terms of indirect impacts, the development would have no impact in terms of disturbance (noise, emissions, lighting, construction impact) of habitats or species of qualifying interests any Natura 2000 site due to distance between the site and any designated Natura 2000 site. The nearest Natura 2000 sites are the North Dublin Bay SAC (000206), the qualifying interests in terms of habitats are mudflats and sandflats, annual vegetation, Salicornia and other annuals, Atlantic and mediterranean salt meadows, embryonic shifting dunes, shifting dunes, fixed coastal dunes, humid slack dunes and species in the form of petalophyllum ralfsii. It overlaps with the North Bull Island SPA (004006) whose qualifying interests consist of 18 bird species. The site has been used as an ex-situ foraging grounds for the Light-Bellied Brent Geese, which is a qualifying interest of the North Dublin Bay SPA as well as the South Dublin Bay and Tolka Estuary SPA, the Baldoyle Bay SPA, the Malahide Estuary SPA and the Rogerstown Estuary SPA. The applicant's Screening Report concludes that the site has ceased as an ex-situ foraging habitat for Brent-Geese on the basis that the site is no longer a suitable habitat for such due to vegetation growth (grassland swards)

across the site and that such is demonstrated based on 4 years of ornithological surveys of the site.

8.3.3 The proposal was refused on the basis of a failure to demonstrate to the satisfaction of the Planning Authority that the integrity of the North Bull Island SPA (4006), South Dublin Bay and River Tolka Estuary SPA (4024) and Baldoyle Bay SPA (4016) will not be adversely affected, particularly when considering in-combination effects of other projects. This was on the basis that the NIS submitted failed to provide scientific evidence based on robust data analysis to objectively conclude that the loss of the Cadbury’s Pitch & Putt site as a result of development, has not, and will not have a significant negative effect on the Light-bellied Brent Goose population of Dublin Bay. The potential risk of disturbance and displacement of SCI species, especially Light-bellied Brent Geese, from the proposed development site should have been brought forward for detailed consideration including in-combination effects of ex-situ site loss, and potential population level effects, in Stage 2 of the AA process, ie. Considered in detail in the NIS.

8.3.4 In terms of hydrological connections, surface water drainage will be to existing sewer in Oscar Traynor Road with discharge to the Santry River 146m from the site and downstream discharge to Dublin Bay within the North Dublin Bay SAC and North Bull Island SPA. There is possibility of indirect effects through discharges of sediments/pollutants to surface water during the construction and operational phase and impacting habitats and species that are dependent on water quality. There is unlikely to be any indirect impact on water quality through foul water drainage with such draining into the Ringsend Wastewater Treatment Plant, which has capacity and is operated subject to license.

8.3.5 European Sites at risk:

<b>Table 1 European Sites at risk from impacts of the proposed project [example]</b>			
<b>Effect mechanism</b>	<b>Impact pathway/Zone of influence</b>	<b>European Site(s)</b>	<b>Qualifying interest features at risk</b>

<p>Effect A Deterioration in water quality due to discharge of sediment/pollutants to surface water</p>	<p>Discharge to surface water system with subsequent discharge to North Dublin Bay SAC impacting water quality and habitats identified as qualifying interests.</p>	<p>North Dublin Bay SAC (000206)</p> <p>Conservation Objectives:</p> <p>To maintain and restore the favourable conservation condition of the qualifying interests.</p>	<p>Mudflats and sandflats not covered by seawater at low tide [1140] (maintain)</p> <p>Annual vegetation of drift lines [1210] (restore)</p> <p>Salicornia and other annuals colonising mud and sand [1310] (restore)</p> <p>Atlantic salt meadows (<i>Glauco-Puccinellietalia maritima</i>) [1330] (maintain)</p> <p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410] (maintain)</p> <p>Embryonic shifting dunes [2110] (restore)</p> <p>Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120] (restore)</p> <p>Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130] (restore)</p> <p>Humid dune slacks [2190] (restore)</p> <p><i>Petalophyllum ralfsii</i> (Petalwort) [1395] (maintain)</p>
<p>Effect B Loss of ex-situ foraging grounds</p>	<p>Proposal is redevelopment of existing greenfield site formerly in use as a pitch and putt course with significant levels of structures and hard and soft landscaping with subsequent impact on site as an ex-situ foraging habitat for</p>	<p>North Bull Island SPA (004006)</p> <p>Conservation Objectives:</p> <p>To maintain the favourable conservation condition of the qualifying interests.</p>	<p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p>

	a QI (Light-bellied Brent Geese)		
Effect B Loss of ex-situ foraging grounds	Proposal is redevelopment of existing greenfield site formerly in use as a pitch and putt course with significant levels of structures and hard and soft landscaping with subsequent impact on site as an ex-situ foraging habitat for a QI (Light-bellied Brent Geese)	South Dublin Bay and River Tolka Estuary SPA (004024)  Conservation Objectives:  To maintain the favourable conservation condition of the qualifying interests.	Light-bellied Brent Goose (Branta bernicla hrota) [A046]
Effect B Loss of ex-situ foraging grounds	Proposal is redevelopment of existing greenfield site formerly in use as a pitch and putt course with significant levels of structures and hard and soft landscaping with subsequent impact on site as an ex-situ foraging habitat for a QI (Light-bellied Brent Geese)	Baldoyle Bay SPA (004016)	Light-bellied Brent Goose (Branta bernicla hrota) [A046]

### 8.3.6 Likely significant effects on the European site(s) 'alone':

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)?			
		Effect A	Effect B	Effect C	Effect D
North Dublin Bay SAC					
Mudflats and sandflats not covered by	To maintain and restore the favourable conservation condition of the qualifying interests.	N			

<p>seawater at low tide [1140] (maintain)</p> <p>Annual vegetation of drift lines [1210] (restore)</p> <p>Salicornia and other annuals colonising mud and sand [1310] (restore)</p> <p>Atlantic salt meadows (<i>Glaucopuccinellietalia maritimae</i>) [1330] (maintain)</p> <p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410] (maintain)</p> <p>Embryonic shifting dunes [2110] (restore)</p> <p>Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120] (restore)</p> <p>Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130] (restore)</p> <p>Humid dune slacks [2190] (restore)</p> <p><i>Petalophyllum ralfsii</i> (Petalwort) [1395] (maintain)</p>					
North Bull Island SPA					
Light-bellied Brent Goose ( <i>Branta bernicla hrota</i> ) [A046]	To maintain the favourable conservation condition of the qualifying interests.		Y		
South Dublin Bay and River Tolka					

Estuary SPA (004006)					
Light-bellied Brent Goose (Branta bernicla hrota) [A046]	To maintain the favourable conservation condition of the qualifying interests.		Y		
Baldoyle Bay SPA					
Light-bellied Brent Goose (Branta bernicla hrota) [A046]	To maintain the favourable conservation condition of the qualifying interests.		Y		

8.3.7 The proposed development alone is unlikely to undermine the conservation objectives of the North Dublin Bay SAC due to discharge of sediments/pollutants to surface water during construction as standard construction measures will prevent pollution risks and provision Sustainable Urban Drainage Systems (SuDs) as proposed will prevent discharge of sediments and pollutants to surface water during the construction and operational stage. Notwithstanding such in event such measures fail, the hydrological connection is indirect and the likelihood of significant effects on qualifying interests (habitats and species) can be ruled out on the basis of dilution factor. Having regard to this conclusion I would also state no other aquatic based Natura 2000 site located in Dublin Bay and the Irish Sea would be at risk as such are located at further distance from the site and I do not consider such are within the zone of influence of the project. I would acknowledge that the applicants' screening assessment did not rule out significant effects in terms of hydrological connection at construction stage and carried out a Stage 2 Appropriate Assessment in this regard with mitigation measures specified (Table 7 of the NIS). I am satisfied that these are standard construction/operational processes and cannot be considered as mitigation measures. These measures are standard practices for urban sites and would be required for a development on any urban site in order to protect local receiving waters, irrespective of any potential hydrological connection to Natura 2000 sites. I am satisfied that significant effects on the North Dublin Bay SAC or any other Natura 2000 site in relation to impact on water quality and



significant effects on the quality of aquatic habitats and subsequently on the species dependent on such habitats that are qualifying interests can be ruled out at the screening stage.

8.3.8 I would refer to the supplementary report carried out by the Inspectorate Ecologist, which is attached to this report. There is evidence that the appeal site is part of a network of amenity grasslands that are an ex-situ foraging habitat for the Light-bellied Brent Goose, which is a qualifying interest of a number of designated sites in Dublin Bay including the North Bull Island SPA, South Dublin Bay and River Tolka SPA and Baldoyle Bay SPA. The site which was formerly in use as a pitch and putt course has been used as an ex-situ foraging site for the Light-bellied Brent Goose. The applicant screened these sites out at the AA screening stage on the basis that the site has ceased (since 2015) to be used for foraging by this species due to the growth of grassland swards on site and claims that such is backed up by ornithological surveys carried out over four year period. The proposal was refused on the basis the NIS submitted fails to provide scientific evidence based on robust data analysis to objectively conclude that the loss of the Cadbury's Pitch & Putt site as a result of development, has not, and will not have, a significant negative effect on the Light-bellied Brent Goose population of Dublin Bay and such should have been brought forward for Stage 2 Appropriate Assessment in the NIS submitted. The Department of Heritage, Housing and Local Government (Development Applications Unit) submission is also critical of the lack of assessment of this issue in the NIS submitted. The Inspectorate Ecologist report highlights the failure to address the potential for significant effects in NIS on the Light-bellied Brent Goose in the context of North Bull Island SPA and in the context of a number of other designated sites such as the South Dublin Bay and River Tolka SPA and Baldoyle Bay SPA.

8.3.9 I would consider that the applicant has failed to demonstrate that the proposed development would not have significant effects on a qualifying interest of North Bull Island SPA, South Dublin Bay and River Tolka SPA and Baldoyle Bay SPA beyond reasonable scientific doubt. I conclude that the proposed development would not

have a likely significant effects 'alone' on the qualifying interests of the North Dublin Bay SAC or any other designated Natura 2000 site from effects associated with discharge of sediments/pollutants to surface water during the construction stage.

8.3.10 Likely significant effects on the European site(s) 'in-combination with other plans and projects: The nearest development of note is the permitted developments to the north of the site (refer to planning history). I would rule out in-combination effects in relation to water quality on the basis that any proposed or permitted development was subject to AA screening and that such connect to existing drainage infrastructure and are subject to the same construction management measures to prevent discharges of sediments/pollutants to surface water. The applicant as failed failed to demonstrate that the proposed development would not have significant effects on a qualifying interest of North Bull Island SPA, South Dublin Bay and River Tolka SPA and Baldoyle Bay SPA beyond reasonable scientific doubt in-combination with other plans and projects.

8.3.11 Overall Conclusion- Screening Determination: In accordance with Section 177U(4) of the Planning and Development Act 2000 (as amended) and on the basis of objective information I conclude that significant effects cannot be ruled out in relation to species of conservation interest that is a qualifying interest of the North Bull Island SPA, South Dublin Bay and River Tolka SPA , Baldoyle Bay SPA and. It is therefore determined that Appropriate Assessment (stage 2) is required.

#### 8.4 **Stage 2 – Appropriate Assessment**

8.4.1 I have relied on the following guidance: Appropriate Assessment of Plans and Projects in Ireland: Guidance for Planning Authorities, DoEHLG (2009); Assessment of plans and projects significantly affecting Natura 2000 sites. Methodological guidance on the provisions of Article 6(3) and 6(4) of the Habitats Directive 92/43/EC, EC (2002); Managing Natura 2000 sites, The provisions of Article 6 of the Habitats Directive 92/43/EEC, EC (2018).

8.4.2 As noted above the application was accompanied by an NIS however such is lacking sufficient detail and analysis of the effect of the proposal on the Light-bellied Brent Goose, which is a qualifying interest of North Bull Island SPA, South Dublin Bay and River Tolka SPA and Baldoyle Bay SPA. I consider that insufficient information is available to determine that the proposed development would not have significant effects on an ex-situ qualifying interest, namely the Light-bellied Brent Goose either alone or in combination with other plans and projects beyond reasonable scientific doubt.

8.4.3 I conclude that on the basis of the information provided with the application and appeal, including the submitted Natura Impact Statement, and in light of the assessment carried out above, I am not satisfied that the proposed development individually or in-combination with other plans and projects would not adversely affect the integrity of European Sites, North Bull Island SPA, South Dublin Bay and River Tolka SPA, Baldoyle Bay SPA in view of the sites conservation objectives.

## **9.0 Assessment**

9.1 The planning issues arising from the submitted development can be addressed under the following headings-

- Compliance with Z10 zoning Objective
- Daylight/Sunlight
- Compliance with Community/Cultural Space Requirement
- Retail Impact
- Archaeological Impact
- Other Issues
- General Views on Design, Scale and Layout

### **9.2 Compliance with Z10 zoning Objective:**

- 9.2.1 The site is zoned Z10 with a stated objective “to consolidate and facilitate the development of inner city and inner suburban sites for mixed-uses”. Under this policy “There will be a requirement that a range of 30% to 70% of the area of Z10 zoned lands can be given to one particular use, with the remaining portion of the lands to be given over to another use or uses (e.g. residential or office/employment)”. In this case permission was refused on the basis of a failure to achieve appropriate mix of uses with the proposal for assisted living considered insufficiently different from standard residential accommodation.
- 9.2.2 The appellants are of the view that Assisted Living is recognised as a separate category of development under the Development Plan and refer to the listed permissible uses and the definition of such under Section 15.13.7. The Planning Authority did not consider that the assisted living portion of the development was sufficiently removed from residential use and that assisted living apartments are a type of residential housing accommodation and that there are a number of separate types of residential accommodation listed under permissible uses. The Planning Authority also indicated that the assisted living apartments proposed lack the ancillary communal facilities that defined such uses as outlined under Section 15.13.7 of the Development Plan and the standards set down under Statutory Instrument No. 293 of 2016, Health Act (Care and Welfare of Residents in Designated Centres for Older People) Regulations 2016 in relation to ancillary staff accommodation, communal dining facilities and medical facilities. The Planning Authority also took issue with the lack of a specific end user or commitment from an operator in the nursing home/assisted living sector to operate this aspect of the proposal.
- 9.2.3 The proposal consists of 330 apartment units, which is the residential component of the development. In addition to such 60 no. Assisted Living Units are proposed and are located in Block B and consist of a mixture of 30 no. one bed and 30 no. two bed units. At ground floor level of Block B there is an entrance lobby and office area serving the Assisted Living Block in addition to 2 no. community halls that are provided under the requirement for 5% community and cultural space. Other uses include retail use with 5 no. retail units including a neighbourhood store (2,538sqm)

and 4 no. retail units in Block A (2091,134.2, 209.2 and 212.9sqm). The proposal also provides for a childcare facility at ground floor level of 429sqm within Block C. The applicants' documents indicate that the breakdown between residential and non-residential is 73% residential (330 Apartment units) and 27% non-residential (Assisted Living units, Retail and Childcare).

- 9.2.4 The appeal submission proposes alterations to Block B to address the planning Authority's concerns regarding the status of the assisted living component as contributing to mixed use element and compliance with the Z10 zoning. The alterations at ground floor include omission of a community hall (relocated to Block A in lieu of 2 no. retail units) and the provision of additional accommodation for assisted living including a nursing station, a space for a physio, occupational therapy and a communal dining hall in addition to the reception area and office space originally proposed. On the upper floors (first to fifth) alterations include a change in the unit mix with a change from 6 no. one-bed units and 6 no. two-bed units on each floor to a mix of 8 no. one-bed units and 4 no. two-bed units on each floor with the addition of an external community terrace at on each floor (provision of 60 no. units with 40 no. one bed and 20 no. two bed units). The footprint and height of Block B remains unchanged with some changes to the elevations to facilitate the provision of community terraces on the eastern elevation and the reduction in balcony width in some cases where units have been changed from two-bed to one-bed units. In relation to end user the applicants/appellants have indicated that they have made contact with a number of operators in this sector and that they have a letter of support from the HSE for the proposal and expressions of interest from five potential operators (submitted with the appeal submission).
- 9.2.5 The Z10 zoning is classified as Inner Suburban and Inner City Sustainable Mixed-Uses – Zone with a stated objective “to consolidate and facilitate the development of inner city and inner suburban sites for mixed-uses”. Development Plan policy states that “in order to ensure that a mixed-use philosophy is adhered to on Z10 zoned lands, the focus will be on delivering a mix of residential and commercial uses. There will be a requirement that a range of 30% to 70% of the area of Z10 zoned lands can be given to one particular use, with the remaining portion of the lands to

be given over to another use or uses (e.g. residential or office/employment). The question at issue is whether the proposed mix of uses on site comply with the zoning objective, which seeks to deliver a mixture of residential and commercial uses.

9.2.6 The predominant use on site is residential with 330 no. apartment units proposed, 60 assisted living apartment units, 5 no. retail unit, Community/Cultural Space, Childcare Facility and residential Amenity facilities ancillary to residential use. In terms of gross floor area, the residential portion (330 apartments, residential amenity, community/cultural floorspace (such is all indicated as community hall and community centre and no commercial in nature) accounts for 76% of the gross floor area whereas the commercial element (60 assisted living units, retail and childcare account for 24%) of the gross floor area. This split in absence of conclusion regarding the status of the assisted living does not meet the 70/30 split under Z10 zoning objective.

9.2.7 In regards to the status of the assisted living units, I would acknowledge that assisted living/retirement home is a separately identified use category from residential under the section outlining 'permissible uses' for the Z10 zoning objective. Notwithstanding such and the fact that this use may be centrally operated and managed by a commercial operator, the use is a residential use as it is designed to facilitate the residential need of an older population and in this regard the overall development is predominantly residential in nature with the original proposal submitted having a split of 88.6% between residential and commercial based on gross floor area. In relation to Section 15.13.17, this section is under the Chapter 15 Development Standards and is under Section 15.13 Other Residential Typologies. Assisted Living/Retirement Home is as defined under Appendix 15 (1.0 Lan-Use definitions) of the Development Plan as "semi-independent housing accommodation specifically designed to meet the needs of older people and persons with disabilities in which dining, recreation, hygiene and health care facilities can be shared on a communal basis".

- 9.2.8 I would acknowledge that the applicants/appellants have revised the proposal and have provided more staff support, medical and communal facilities along with the proposed apartments (amendments to unit mix). I would consider that these alterations better meet the criteria for Assisted Living/Retirement Home under Section 15.13.17 Development Standards. I do not however consider such addresses the issue of mix of uses as specified under the Z10 zoning objective.
- 9.2.9 In relation to the issue of lack of commitment from an existing operator for the Assisted Living portion of the development, I would note that in the event the Board is minded to grant permission, the lack of such at this stage is not a factor precluding the granting permission. I am satisfied that an appropriate Section 47 condition confining the occupancy of the Assisted Living units to elderly tenants and its management by a single operator or entity would suffice.
- 9.2.10 Conclusion on compliance with Z10 zoning objective: Development Plan policy for the Z10 zoning objective clearly states that in order to ensure that a mixed-use philosophy is adhered to on Z10 zoned lands, the focus will be on delivering a mix of residential and commercial uses. There will be a requirement that a range of 30% to 70% of the area of Z10 zoned lands can be given to one particular use, with the remaining portion of the lands to be given over to another use or uses (e.g. residential or office/employment). I am not satisfied that the Assisted Living component can be seen as anything other than a residential use despite being commercially operated and managed and taken in conjunction with the proposal for 330 apartments provides for an overly dominant portion of a single type of use on site (residential) and would be contrary to the requirements for a mix of uses on the Z10 zoning. In this regard I would consider that the proposal would constitute a material contravention of the Z10 zoning objective and set an undesirable precedent for deviation from the objectives of such zoning.

### **9.3 Daylight/Sunlight:**

- 9.3.1 The Planning Authority refusal was on the basis that the units within Blocks D and E fail to meet the minimum standards as set out in Appendix 16 Sunlight and Daylight of the Dublin City Development Plan 2022-2028 and the Sustainable Urban

Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2023). In absence of robust compensatory measures, the proposed development was considered to result in a poor level of residential amenity for future occupants of the development and is, therefore, considered to be contrary to the provisions of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2023), the Dublin City Development Plan 2022-2028 and the proper planning and sustainable development of the area.

9.3.2 Development Plan policy under Appendix 16 outlines the guidance that should be used to assess development, and such include...

BR 209 (2011) – Site Layout Planning for Daylight and Sunlight, A Guide to Good Practice (Second Edition)

BS 8206-2:2008 – Lighting for Buildings, Part 2: Code of Practice for Daylighting

BS EN 17037:2018+A1:2021 Daylight in Buildings

IS EN 17037:2018 Daylight in Buildings

This section does indicate that “if, over the coming years, a revised version of BRE 209 is to be issued, the guidance within this new version will take precedence”. In this case a new version has been issued...

BR209 2022: Site Layout Planning for Daylight and Sunlight (Third edition).

The tests for daylight and sunlight levels within proposed units as set out in the submitted Daylight, Sunlight and Overshadowing Assessment include...

Average Daylight Factor (Daylight),

Target Illuminance (Daylight),

Annual Probable Sunlight Hours (APSH) and Winter Probable Sunlight Hours (WPSH).

Development Plan policy refers to the Apartment Guidelines, which state that regard should be had to a number of guides (IS EN17037:2018, BS EN17037:2019 BRE Guide 209 2022 Edition (June 2022)) and any relevant future guidance, It is stated that where an applicant cannot fully meet all of the requirements of the



daylight provisions above, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, which planning authorities should apply their discretion in accepting taking account of its assessment of specifics. This may arise due to design constraints associated with the site or location and the balancing of that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and or an effective urban design and streetscape solution.

9.3.3 The Sustainable Compact Settlement Guidelines state that “in drawing conclusions in relation to daylight performance, planning authorities must weigh up the overall quality of the design and layout of the scheme and the measures proposed to maximise daylight provision, against the location of the site and the general presumption in favour of increased scales of urban residential development. Poor performance may arise due to design constraints associated with the site or location and there is a need to balance that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and or an effective urban design and streetscape solution”.

9.3.4 Daylight: The submitted Daylight and Sunlight Assessment includes assessment of the daylight performance of the proposed units based on a number of factors with the refusal reason highlighting the test results for Block D and E as being deficient for daylight standards. The Daylight and Sunlight Assessment submitted test all units for Average Daylight Factor based on the BR 209 (2011) with target values being 1% for bedroom, 1.5% for living rooms and 2% for kitchens (2% value for combined kitchen/living). The tests of Target Illuminance under BR209 2022 have two criteria...

Criterion one recommends that in the analysed space an illuminance of  $\geq 100$  lux must be achieved for half of the daylight time in a year (2,190 hours), across  $\geq 95\%$  of the floor area of the given space;

Criterion two recommends that in the analysed space an illuminance of  $\geq 300$  lux must be achieved for half of the daylight time in a year (2,190 hours), across  $\geq 50\%$  of the floor area of the given space.

9.3.5 The results for the proposed development for ADF for Blocks A, B and C is 100% compliance with target values (1% for bedrooms and 2% for living/dining/kitchens). For Block D 15 of the living/dining/kitchen spaces fall below the 2% target value with 4 of these spaces being below 1.5%. For Block E 33 of the living/dining/kitchen spaces fall below the 2% target value with 13 of these spaces being below 1.5% and 1 no. bedroom falling below the 1% target value.

9.3.6 Daylight: In the case of BR209 2022 the results are as follows...

Block	Criterion 1	Criterion 2
Block A (36 units)	5 living/dining/kitchen spaces below target value	100% compliance
Block B (60 units)	7 living/dining/kitchen spaces and 3 bedrooms below target value	100% compliance
Block C (51 units)	1 living/dining/kitchen spaces below target value	100% compliance
Block D (69 units)	20 living/dining/kitchen spaces and 22 bedrooms below target value	5 living/dining/kitchen spaces below target value
Block E (174 units)	62 living/dining/kitchen spaces and 51 bedrooms below target value	7 living/dining/kitchen spaces below target value

9.3.7 The submitted report notes the high compliance rate in terms of ADF (BR 209, 2011) with 95% of the units meeting target values, a compliance rate of 82.5% for Criterion 1 and 98.8% for Criterion 2, Target Illuminance (BR209, 2022). The report

indicates that units which fall short in relation to BR209, 2022 are compensated by generous floor areas, access and views of amenity space and increased glazing areas.

9.3.8 In response to refusal reason no. 3 the applicant/appellant has proposed a number of amendments to improve daylight levels on the proposed development within Blocks D and E. A Daylight, Sunlight and Overshadowing Assessment report has been submitted with the appeal illustrating the results of the amendments proposed in response to the appeal. No alterations are proposed to Block A, B (the alterations to Block B do not alter daylight and sunlight levels) and C. In the case of Block D and E the alterations include use of glass with higher Visible Light Transmittance, which will allow increased daylight (stated as 0.8 rather than the more typical value of 0.70. It is also proposed to increase the widths of windows (1.8m to 2.135m, 2.7m to 3.15m and 2.95m to 3.25m). The updated results based on these measures are as follows...

Block	ADF	Criterion 1	Criterion 2
Block D (36 units)	3 living/dining/kitchen spaces below target value (below 2% and above 1.5%)	14 living/dining/kitchen spaces below target value	12 living/dining/kitchen spaces and 1 bedroom below target value
Block E (174 units)	15 living/dining/kitchen spaces and 1 bedroom below target value (10 l/d/k below 2% and 5 below 1.5%)	46 living/dining/kitchen spaces and 2 bedrooms below target value	51 living/dining/kitchen spaces and 8 bedrooms below target value

9.3.9 The updated report submitted outlined the following overall results for Blocks D and E in terms of daylight...

	ADF	Criterion 1	Criterion 2
Block D	98% compliance in terms of total number of rooms and 95.7% on a dwelling-by-dwelling basis.	91.8% compliance in terms of total number of rooms and 79.7% on a dwelling-by-dwelling basis.	92.4% compliance in terms of total number of rooms and 81.2% on a dwelling-by-dwelling basis.
Block E	97% compliance in terms of total number of rooms and 92% on a dwelling-by-dwelling basis.	89.9% compliance in terms of total number of rooms and 74.1% on a dwelling-by-dwelling basis.	87.3% compliance in terms of total number of rooms and 70.7% on a dwelling-by-dwelling basis.

9.3.10 I would note that the Apartments Guidelines and Building Height Guidelines provide for alternative, compensatory design solutions and discretion based on context and wider planning objectives. In this regard, I am satisfied that the application has clearly identified where the proposal does not meet the relevant daylight provisions of the BRE Guide. I am satisfied that through the alterations proposed with the appeal response that the results within Blocks D and E are an improvement over the original proposal in terms of ADF and Criterion I, however for Criterion II the results are worse. In the case of Block D the level of non-compliance with the old standard (ADF) is low in proportion of the number of units in the block. In terms of the new standard (Target Illuminance) at least a third of the units have living spaces that do not meet the target values and in most cases is for both Criterion I and II. In the case of Block E the level of non-compliance with the old standard (ADF) is a low in proportion of the number of units in the block. In terms of the new standard (Target Illuminance), 26% of the units do not meet target values for Criterion I and 30% do not meet target vales for Criterion II in the case of living spaces. As with Block D in most cases such is for both Criterion I and II. The units in question are located on

the north western elevations of Block D and the north western elevations of Block E or facing internal part of the courtyard area of Block E.

9.3.11 I would acknowledge that some level of non-compliance with these target value is to be expected in a development of this type and scale and would not be untypical in this type of development. In this case and despite the alterations I would consider that the level of units that fall below the target values in the case of Blocks D and E is still significant level of the units relative to the number of units in each Block. I would note that the applicants original report indicate that compensatory measure have been applied but fails to identify the units that have been subject to such measures in the context of the results for daylight. The revised report also fails to identify any compensatory measures or which units such have been applied to.

9.3.12 Sunlight: An assessment of Annual Probable Sunlight Hours (APSH) for the proposed units has been carried. The BRE standard (2011 and 2022 guidelines) is for interiors where the occupants expect sunlight should receive at least one quarter (25%) of APSH including in the winter months between 21<sup>st</sup> September and 21<sup>st</sup> March at least 5% of APSH. This standard only applies to units within 90 degrees of due south. The results for the proposed development show the majority of living spaces meet the target values with a small number of units (9) that do not meet target values (25% standard with all units meeting winter target of 5%).

9.3.13 A total number of 1,401 windows were analysed with 818 windows (58%) meeting the APSH standard and 945 (67%) windows meeting the WPSH standard. The windows that fall below the standards are located on the north western facades or where they face other blocks or portion of the same block within the overall scheme and in cases where units are single aspect. In relation to the 2022 guidelines the applicants note that standards in north facing units are impacted by provision of balconies overhanging living spaces and that such is inevitable given the recommendation of the Apartment Guidelines for balcony areas to be directly accessible form living spaces. It is notable that the updated Daylight, Sunlight & Overshadowing report submitted with the appeal submission in response to the refusal reason, does not increase in sunlight to units and quotes the same results as

the original report submitted despite the alterations proposed in relation to Blocks D and E.

9.3.14 The report also includes an assessment of sunlight in relation public open space and communal open space on site. The recommend standard under the BRE guidelines (2011 and 2022) is that for external amenity spaces to appear adequately sunlit throughout the year, at least half of the space should receive at least two hours of sunlight on March the 21<sup>st</sup>. In this case well over 50% of the public open space and communal opens space areas achieve this standard.

9.3.15 The issue of daylight and sunlight in relation to impact on adjoining properties was not an issue for the Planning Authority or a reason for refusal with the only residential properties adjoining the site being three dwellings to the south on the opposite side of Oscar Traynor Road. A test for Vertical Sky Component was carried out for ground floor windows on these dwellings for the elevations facing the site with all windows retaining above the 27% target value for VSC post development. The proposal would have no adverse impact on any adjoining residential properties in terms of daylight and sunlight.

9.3.16 Conclusion on Daylight/Sunlight: I would acknowledge that the proposed alterations submitted with the appeal submission do result in improved results in terms of daylight. The revised Daylight, Sunlight and Overshadowing report does not indicate any change in sunlight levels despite the alterations. The result of tests for both daylight and sunlight levels showed that a disproportionate level of units within Blocks D and E fail to meet target values with a lack of clarity regarding compensatory measures or identification of specific measures in relation to the units that fail to meet target values. Despite the fact that the revised proposal has resulted in improved level of results in terms of daylight standards (ADF and Criterion I), the proportion of units and in particular living spaces below target values within both Blocks D and E is high and could not be considered to be a minor level. In responding to the refusal with revised plans the applicant still failed to provide clarity on compensatory measures and how such related to specific units that did not meet target values. In particular units on the north western elevation of Block D, which fail

to meet the target values and have a poor outlook facing onto a narrow circulation area and the rear of the Northside Retail Park. The proposed development would not provide a suitable level of amenity for the prospective residents. The proposed development as originally submitted would be contrary to Development Plan Policy Objectives in relation to daylight and sunlight as set out under Appendix 16 of Development Plan and would, therefore, be contrary to the proper planning and sustainable development of the area. The suggested alterations to Blocks D and E as submitted with appeal are noted both such fail to address this issue sufficiently to reach a different conclusion.

#### **9.4 Compliance with Community/Cultural Space Requirement:**

9.4.1 Development Plan policy objective CU025 All new regeneration areas (SDRAs) and large-scale developments above 10,000 sq. m. in total area\* must provide at a minimum for 5% community, arts and culture spaces including exhibition, performance, and artist workspaces predominantly internal floorspace as part of their development at the design stage. The third-party observation raises question regarding the provision of community, arts and cultural spaces on site on the basis that it does not include assigned specific uses and are not based on required community/social audits and claims non-compliance with Development plan policy.

9.4.2 To comply with the requirements of Policy Objective CU025, the proposal is for community and cultural spaces consisting of 2 no. Community Hall spaces at ground floor of Block B (808sqm), a Community centre (243sqm) at ground floor level of Block C and outdoor cultural open spaces adjacent Block B (931sqm). The Council's assessment of this aspect of the proposal noted that clarity is required of future uses and that some of the space designated for such is external space with Objective CU025 requiring predominantly internal floorspace, however this was not an issue for the which proposal was refused.

9.4.3 The proposal entails the provision of 1,982sqm of internal and external space with a community hall in Block B (808sqm), community centre in Block C (243sqm) and

931sqm of external space described as cultural space. I would question how well the provision for community and cultural uses complies with Development plan policy. The level of internal space provided (1,051sqm) is less than 5% of the gross floor area of internal space proposed (2.6%). Taken in conjunction with the 931sqm of external space the level is over 5% of the gross floor area of the structures proposed. The provision of community and cultural space does not appear to be based on any an evidence base/audit of the area. The documents submitted do include a Social and Community Infrastructure Audit identifying public transport, community, education, sporting and recreational uses and facilities in the area, however there is no analysis regarding how the applicant has determined that the proposed type, level and configuration of community and cultural space is what is required in the area based on this audit. A high level of space provided is external space with policy indicating that such should predominately internal space. The external space consists of two areas located adjacent Block B, the larger of the two is part of the general open space (landscape layout identifies some seating) and there are no specific details of how such fulfils a role as a cultural space. The smaller of the two spaces is located to the rear of Block B (west) and is part of what appear to be a circulation area and not an area that has a clearly identifiable configuration and use as a cultural entity. I would acknowledge that in excess of the required level of public open space (10% of site area) under Development policy is provided however such is 290sqm in excess of the minimum requirement. I would consider use of some the open space allocation for cultural would be acceptable if that space was useable at all times for open space.

9.4.4 Notwithstanding the fact the proposal was not refused on this basis I would consider that the provision of space to satisfy the requirements of Objective CUO25 is deficient. Such is not based on any evidence base/audit of the area and the provision of a significant proportion as external space with no clear layout of design to identify it as a cultural space and the fragmented nature of such with the smaller of the two spaces a part of a circulation space to the rear of Block B. I would note that revised plans submitted with the appeal submission relocates some of the community hall space from the ground floor of Block B to the ground floor of Block A but does not address this issue.



9.4.5 Conclusion on Compliance with Community/Cultural Space Requirement: The overall provision of community and cultural space provided fails to meet the requirements of Objective CUO25. This is on the basis the applicant has failed to demonstrate that the nature and design of such space is based on any evidence base/audit of the area, a significant portion of the space provided is external space whereas policy requires predominantly internal space and the failure to provide any significant details as to how the external space functions as cultural space as well as the fact that the provision of this external space is fragmented with apart of such located to the west of Block B part of a circulation area of questionable quality in terms of providing for an active cultural use. I would note that this is a new issue as it was not issue for which the development was refused, however the planning report did highlight some concerns about the manner in which the applicant was intending to comply with Objective CUO25. I do consider that the proposal is deficient in the manner in which it has dealt with this objective, and such is significant enough to merit refusal.

## 9.5 Retail Impact:

9.5.1 The proposal entails the provision of 5 no. retail units including a neighbourhood store to the south of the site adjacent the road frontage (2,536 sqm with 1,202sqm net retail floor space) and 4 no units in Block A (2,091, 134.2, 209.2 and 212.9sqm). The third-party observers raise concerns regarding the retail provision and its impact on future viability of the Northside Retail Park with a lack of justification provided for additional retail at a Z10 zoned site.

9.5.2 The application is accompanied by a Retail Impact Statement. This report indicates that the neighbourhood store is to be occupied by Aldi, which will continue to operate the existing store at the Northside Retail Park. The report highlights the fact that retail use is identified as a permissible use within the Z10 zoning objective and on this basis, there is no requirement to demonstrate compliance with the sequential approach as retail is identified as being appropriate at this location. The retail Impact Statement identifies the catchment area of development defined as a five minute

drive, identifies existing convenience retail development within such (7 stores with a net retail floor area of 12,990sqm). An assessment to the population within this catchment including anticipated population growth is outlined with the assessment anticipating significant population growth within such (projected to 2027). The assessment identifies expenditure available (convenience goods) based on population, an estimate of the turnover of the retail proposed and the turnover of existing retail development (the 7 no. existing convenience retail developments within the catchment area). The Retail Impact Assessment concludes that the proposed development would have an acceptable impact noting that matters of competition between retailers is not a planning consideration and that based on catchment analysis the proposal for a discount food store on site would be acceptable.

9.5.3 The third-party observation is on behalf of the Northside Retail Park, which is located to the west of the site and fronts onto Coolock Drive. This retail park has a number of units including a discount food store operated by Aldi, a Mr Price, Hickeys Home Focus, a vacant unit and a Pharmacy. The observation raises concern regarding retail impact of the proposal on viability of existing retail and highlights the fact that site is not designed as neighbourhood centre of a key urban village (Zone Z4) whereas the observers' property is zoned Z3, Neighbourhood centre.

9.5.4 The Retail Planning Guidelines do state under Section 4.4 in relation to the sequential approach to location of retail development that "where the location of a proposed retail development submitted on a planning application has demonstrated to the satisfaction of the planning authority that it complies with the policies and objectives of a development plan and/or relevant retail strategy to support city and town centre, additional supporting background studies such as a demonstration of compliance with the sequential approach, below, or additional retail impact studies are not required". The site is zoned Z10, which is mixed use zone with under which the primary uses supported in this zone are residential, office and retail, with shop (local) and shop (neighbourhood) both identified as permissible uses under this zoning.

9.5.5 I am satisfied that the zoning of the site supports the provision of retail development at this location including a neighbourhood convenience store. In this regard I am satisfied a sequential approach is not required. I would acknowledge that the applicant has submitted a Retail Impact Assessment, and such provides adequate detail to indicate that there is capacity for the proposed development in terms of expenditure and future demand as results of future residential expansion at this location. The proposal includes a neighbourhood store/discount food store with it indicated that it is to be operated by Aldi who already operate a store in close proximity and that such will continue to be operated by Aldi regardless of the new store. In this regard the issue of competition is not a material consideration with the zoning of the site supporting retail development of this type. In addition, I would note that the provision of addition residential population at this location as proposed and in close proximity to existing retail is beneficial to such and its future viability. I would note that the amendments proposed by the applicant accompanying the appeal submission include the omission of 2 no. retail units in Block A to facilitate increased ancillary space to the assisted living units in Block B and the relocation of community space from Block B to A in lieu of the retail units.

9.5.6 Conclusion on Retail Impact: I am satisfied that the zoning and location of the site is such that it is a suitable location for the level of retail development proposed. I would note that the provision of a significant level of residential development at this location as proposed would be beneficial to the future viability and vitality of the existing neighbourhood centre to the west and that the applicant has submitted sufficient information demonstrate that there is sufficient capacity/retail demand at this location and going forward due to increased residential development in the area. I am satisfied that the retail impact of the proposal would be acceptable and in accordance with proper planning and sustainable development of the area.

## **9.6 Archaeological Impact:**

9.6.1 The third-party observations raise concerns regarding archaeological impact of the proposal pointing to the fact that the LRD Opinion identified a requirement for

targeted archaeological assessment by way of test excavation. The applicant has not complied with this requirement of Council's LRD Opinion. The application was assessed by the Council's Archaeology, Conservation & Heritage Section with it noted that the site is outside of the zone of archaeological constraint for any recorded monument. It is recommended that a condition is applied in the event of grant of permission including undertaking of an archaeological assessment.

9.6.2 Conclusion on Archaeological Impact: I am satisfied subject to application of an appropriate condition as per the recommendation of the Council's Archaeology, Conservation & Heritage Section, the proposal would be acceptable in the context of archaeological impact.

## 9.7 **Other Issues:**

9.7.1 The NTA raised a number of issues in their submission with the main concern being the manner in which the development ties in between proposed cycle path infrastructure along the road frontage and proposed future cycle path provision as part of the Active Travel Scheme for Oscar Traynor Road. This issue of provision of more Sheffield stand type cycle parking for long stay and increased provision for car sharing spaces was also highlighted. I am satisfied that these issues can be resolved by application of appropriate conditions in the event of a grant of permission.

9.7.2 Conclusion on Other Issues: The issues raised in the NTA submission are noted and such can be dealt with by way of condition.

## 9.8 **General Views on Design, Scale and Layout:**

9.8.1 I have carried out an assessment of the issues raised in the grounds of appeal, which relate to the three reasons for refusal. I have also considered the additional issues raised under the third-party observation. This section of the report will deal with a general assessment of the appropriateness of the proposal in terms of design and scale.

- 9.8.2 Density: The stated density is 114 unit per ha and is within the acceptable range of 50-250 units per hectare for areas classified as City - Urban Neighbourhoods under the Sustainable Residential Development and Compact Settlements: Guidelines for Planning Authorities (2024). I would note that the stated density of 114 unit per hectare is not correct with the actual density being 134 units per hectare based on 390 units when the assisted living units are counted. This is still within the density range under the guidelines. The general range of density supported in the Outdoor Suburbs is 60-120 (Appendix 3 of the CDP), however higher density is permitted subject to compliance with the performance criteria for Building height Appendix 3, Table 3 of the CDP).
- 9.8.3 Plot ratio/Site Coverage/Open Space: The plot ratio is within the range specified in Appendix 3 of the Development Plan (1.0-2.5) and site coverage is below the range specified in the same Appendix (45-60%). Public Open Space provision is in excess of Development Plan requirements (10% of site area) and Communal Open Space provision is above the required standards of Development Plan (based on Apartment Guidelines).
- 9.8.4 Housing Quality: The proposed development is consistent with Apartment Guidelines standards in the context of mix, size, internal dimensions, private open space provision, level of dual aspect units, storage provision, lift/stair core access. I refer to the issue of daylight and sunlight in a separate section of this report as it one of the main issues raised in the appeal.
- 9.8.5 Building Height/Visual Impact: Building height varies from two-storeys (Neighbourhood Store/NS Block) up to nine-storey (part of Block E). Building height adjacent the public areas (Oscar Traynor Road consists of a two-storey block (NS) and four-storey block (Block A, three-storeys over podium level), Blocks B and C to the centre of the site are six-storeys, Block D to the north west of the site is part four and part six-storeys and Block E to the north east of the site is part four, six and nine-storeys. Existing structures adjoining the site include a mixture of industrial warehousing structures (to the north and east), retail warehousing development (west) with two-storey residential on the opposite side of Oscar Traynor Road. In

terms of scale and overall visual impact the lowest structures are located to the front of the site (two and four-storey blocks) with the six-storey blocks located well set back from the road frontage. Block B and C (six-storeys) are located mid-way between the north and southern boundary and adjacent the boundaries with existing retail warehousing to the west and industrial structures to the east. Blocks D and E are predominantly six-storey and are located to the north of the site. The nine-storey element of Block E is set back from all boundaries of the site with a lower scale of development located around it. It is notable that the Planning report stated that the overall visual impact of the six-storey apartment blocks in conjunction with the nine-storey Block E was considered to be overbearing and overly dominant when viewed from Oscar Traynor Road. There is no explicit assessment of Building Height in the Planning Authority's report however it is stated that the site can accommodate buildings higher than the prevailing height in the area (two-storeys) the overall quality must be sufficiently high. The report suggests improvements could be made to the scheme in terms of omission of apartments to increase separation between blocks and a reduction in height of Block E. The applicants submitted an assessment of the proposal in terms of Building Height to demonstrate compliance with the performance criteria set down under Appendix 3 of the Development Plan within the Planning Report submitted.

9.8.6 The applicant submitted a booklet of verified views showing the proposal from 15 no. viewpoints in the immediate vicinity and surrounding area with pre and post development views. I am satisfied that the verified views give an accurate visual impression of the proposed development and its overall visual impact. I am also satisfied that the overall visual impact of the proposal can be absorbed at this location with an acceptable visual impact with scale modulated on site to be set back from the public road frontage and views of the higher elements of the proposal include the six-nine storey elements partially views obscured by intervening structures and vegetation. I am satisfied that the overall height and density is acceptable at this location with overall quality of the development generally acceptable apart from some issues in terms daylight and sunlight to proposed units, which is explored in an earlier section of this report.

- 9.8.7 The proposal provides for active frontage along Oscar Traynor Road with the provision of the neighbourhood store and Block A having ground floor retail units and is acceptable in terms of overall visual impact and streetscape character. In terms of urban design, the proposal provides a development of acceptable quality with a network of open spaces, a mixture of hard and soft landscaping, good quality pedestrian provision and connectivity throughout the site, sufficient levels of open space and accessibility to such throughout the site.
- 9.8.8 The details of facade materials are outlined in the Design Statement submitted with the application. The facade materials for each individual block is outlined with the external finishes predominantly brick finishes of various colours and texture. I would be satisfied that there is sufficient variation in external finishes and textures, and such would be of sufficient quality in terms aesthetic impact. I am satisfied that the overall design and scale of the proposal would be satisfactory in terms of building height, scale and the overall visual impact at this location.
- 9.8.9 The proposal would be acceptable in the context of adjoining amenities with the majority of adjoining development being commercial in nature with retail warehousing and industrial use adjoining the site. The site to the north is a vacant factory and has a permitted residential development (see planning history). The nearest existing dwellings are located on the opposite side of Oscar Traynor Road with such sufficiently set back from the site and development proposed along this frontage limited in scale. I am satisfied that design and scale of the proposal has adequate regard to adjoining amenities.
- 9.8.10 The proposal entails provision of a new vehicular entrance with signalised controlled junction off Oscar Traynor Road. The application is accompanied by a Traffic and Transportation Assessment, which demonstrates the proposal would be satisfactory in the context of traffic impact. The site is well serviced by public transport with access to bus infrastructure and future upgrades planned to existing bus services and provision of upgrading cycling infrastructure along Oscar Traynor Road. The site is also in walking and cycling distance of employment activities, retail development and community infrastructure located in the wider area. The level of

parking provided in terms of car parking and bicycle parking is sufficient to serve the proposal. I would consider that subject to implementing some alterations based on the NTA submission and detailed earlier by way of condition, the proposal would be satisfactory in terms of traffic impact and pedestrian safety.

9.8.11 In relation biodiversity the applicant submitted Ecological Impact Assessment, which details surveys carried out on site. The site is mainly made up of Dry Meadows and Grassy Verges with some level of Scrub/Hedgerow located running through the centre of the site. The site is of low ecological value with no evidence of mammals such as hedgehogs or badgers or amphibians on site. In terms of bats minor foraging of common pipistrelle bat was detected on site with no roosts or habitat of roosting potential. In relation to birds a number of green listed birds were detected on site (feral pigeon, robin, great tit, wren, blackbird and magpie) with one amber list species flying overhead and nesting on neighbouring site (herring gull). The wintering bird survey indicates that the site has ceased as foraging habitat for Light-bellied Brent Geese based on several years of survey work. In relation tree and hedgerow loss the proposal is accompanied by an Arboricultural Report with the proposal entailing removal of four trees, one mature hedgerow and one shrub group. These are classified as being low in quality and condition and will be mitigated by new planting proposed. I am satisfied that apart from issues concerning the Light-bellied Brent Geese, which are dealt with under the section in relation to Appropriate Assessment, the site is of low ecological value.

9.8.12 Conclusion on general Views on Design, Scale and Layout: Notwithstanding certain issues outlined in earlier section of this report which cannot be overcome in this case, I would consider that the proposed development is generally acceptable in terms of overall scale, building height, layout and quality, traffic impact and ecological impact.

## **10.0 Recommendation**

10.1 I recommend refusal based on the following reasons.



## 11.0 Reasons and Considerations

1. Development policy for the Z10 zoning objective clearly states that in order to ensure that a mixed-use philosophy is adhered to on Z10 zoned lands, the focus will be on delivering a mix of residential and commercial uses. There will be a requirement that a range of 30% to 70% of the area of Z10 zoned lands can be given to one particular use, with the remaining portion of the lands to be given over to another use or uses (e.g. residential or office/employment). I am not satisfied that the Assisted Living component can be considered to be anything other than a residential use despite being commercial operated and managed and taken in conjunction with the proposal for 330 apartments provides for an overly dominant portion of a single type of use on site (residential) and would be contrary to the requirements for a mix of uses on the Z10 zoning. In this regard I would consider that the proposal would constitute a material contravention of the Z10 zoning objective and set an undesirable precedent for deviation from the objectives of such zoning.
  
2. On the basis of the information provided with the application and appeal, including the submitted Natura Impact Statement, there is reasonable scientific doubt regarding the robustness of the findings in the Screening stage and a lack of detailed analysis of a species of conservation interest in the Natura Impact Statement with particular reference to Light-Bellied Brent Geese to demonstrate that likely significant effects on ex-situ factors can be excluded for North Bull Island SPA, South Dublin Bay and River Tolka Estuary SPA and Baldoyle Bay SPA. In this regard the Board is not satisfied that the proposed development individually or in-combination with other plans and projects would not adversely affect the integrity of European Sites, North Bull Island SPA, South Dublin Bay and River Tolka SPA, Baldoyle Bay SPA in view of the sites conservation objectives.
  
3. Having regard to the substandard level of amenity for a significant portion of the apartments and in particular for the shared kitchen and living spaces by reason of inadequate daylight and sunlight levels within Blocks D and E and the substandard outlook arrangements for some apartments in particular the apartments on the

north western elevation of Block D, the proposed development would not provide a suitable level of amenity for the prospective residents. The proposed development would be contrary to Development Plan Policy Objectives in relation to daylight and sunlight as set out under Appendix 16 of the City Development Plan and would, therefore, be contrary to the proper planning and sustainable development of the area.

4. The overall provision of community and cultural space provided fails to meet the requirements of Objective CUO25. This is on the basis the applicant has failed to demonstrate that the nature and design of such space is based on any evidence base/audit of the area, a significant portion of the space provided is external space whereas policy requires predominantly internal space and the failure to provide any significant details as to how the external space functions as a cultural space as well as the fact that the provision of this external space is fragmented with part of such located to the west of Block B and is part of a circulation area of questionable quality in terms of providing for an active cultural use. The proposed development would be contrary to Objective CUO25 and would, therefore, be contrary to the proper planning and sustainable development of the area.

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Colin McBride  
Senior Planning Inspector

10<sup>th</sup> July 2024

## APPENDIX 1 EIA Screening Determination

<b>A. CASE DETAILS</b>		
<b>An Bord Pleanála Case Reference – ABP-319481-24</b>		
<b>Development Summary</b>	Construction of 330 dwelling units 60 assisted living units, 5 no. retail units, childcare facility and associated site works	
	<b>Yes / No / N/A</b>	<b>Comment (if relevant)</b>
<b>1. Was a Screening Determination carried out by the PA?</b>	<b>Yes</b>	
<b>2. Has Schedule 7A information been submitted?</b>	<b>Yes</b>	
<b>3. Has an AA screening report or NIS been submitted?</b>	<b>Yes</b>	<b>Natura Impact Statement</b>
<b>4. Is a IED/ IPC or Waste Licence (or review of licence) required from the EPA? If YES has the EPA commented on the need for an EIAR?</b>	<b>No</b>	
<b>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</b>	<b>Yes</b>	<p><b>The following has been submitted with the application:</b></p> <ul style="list-style-type: none"> <li>• <b>An Infrastructure Design Report And Site Specific Flood Risk Assessment report which have had regard to Development Plan policies regarding the Water Framework Directive (2000/60/EC) and the Floods Directive (2007/60/EC).</b></li> <li>• <b>A Preliminary Construction, Management Plan which considers the Waste Framework Directive (2008/98/EC).</b></li> </ul>

		<b>SEA and AA was undertaken by the planning authority in respect of the Dublin City Development Plan 2022-2028.</b>	
<b>B. EXAMINATION</b>	<b>Response: Yes/ No/ Uncertain</b>	<b>Where relevant, briefly describe the characteristics of impacts ( ie the nature and extent) and any Mitigation Measures proposed to avoid or prevent a significant effect</b>  (having regard to the probability, magnitude (including population size affected), complexity, duration, frequency, intensity, and reversibility of impact)	<b>Is this likely to result in significant effects on the environment?</b>  <b>Yes/ No/ Uncertain</b>
<b>1. Characteristics of proposed development (including demolition, construction, operation, or decommissioning)</b>			
<b>1.1</b> Is the project significantly different in character or scale to the existing surrounding or environment?	<b>No</b>	The proposed development consists of a development ranging from 2-9 storeys laid out in 6 no. blocks to the north of Oscar Traynor Road with adjoining development consisting of retail warehousing, industrial warehousing and two-storey dwellings. The development is not regarded as being of a scale or character significantly at odds with the surrounding pattern of development.	<b>No</b>
<b>1.2</b> Will construction, operation, decommissioning or demolition works causing physical changes to the	<b>Yes</b>	The proposed development will result in the construction of a new development with	<b>No</b>

locality (topography, land use, waterbodies)?		the existing site subject to excavation and construction for mixed-use in accordance with the Z10 zoning of that applies to these lands.	
<b>1.3</b> Will construction or operation of the project use natural resources such as land, soil, water, materials/minerals or energy, especially resources which are non-renewable or in short supply?	<b>Yes</b>	Construction materials will be typical of such urban development. The loss of natural resources as a result of the redevelopment of the site are not regarded as significant in nature.	<b>No</b>
<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?	<b>Yes</b>	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 measures outlined in a Preliminary Construction, Management Plan (PCMP) would satisfactorily mitigate potential impacts. No operational impacts in this regard are anticipated.	<b>No</b>
<b>1.5</b> Will the project produce solid waste, release pollutants or any hazardous / toxic / noxious substances?	<b>Yes</b>	Construction activities will require the use of potentially harmful materials, such as fuels and other similar substances, and will give rise to waste for disposal. The use of these materials would be typical for construction sites. Noise and dust emissions during	<b>No</b>

		<p>construction are likely. Such construction impacts would be local and temporary in nature and with the implementation of standard measures outlined in a PCMP would satisfactorily mitigate the potential impacts. Operational waste would be managed through a waste management plan to obviate potential environmental impacts. Other significant operational impacts are not anticipated.</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><b>No</b></p>	<p>No significant risks are identified. Operation of standard measures outlined in a PCMP will satisfactorily mitigate emissions from spillages during construction. The operational development will connect to mains services and discharge surface waters only after passing through a fuel interceptor and a flow control device to the public network. Surface water drainage will be separate to foul drainage within the site and leaving the site</p>	<p><b>No</b></p>
<p><b>1.7</b> Will the project cause noise and vibration or release of light, heat, energy or electromagnetic radiation?</p>	<p><b>Yes</b></p>	<p>There is potential for the construction activity to give rise to noise and vibration emissions. Such emissions will be localised, short term in nature and their impacts would be suitably mitigated by the operation of</p>	<p><b>No</b></p>

		standard measures listed in a PCMP and a final Construction Management Plan. Management of the scheme in accordance with an agreed management plan will mitigate potential operational impacts.	
<b>1.8</b> Will there be any risks to human health, for example due to water contamination or air pollution?	<b>Yes</b>	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 a PCMP and a final Construction Management Plan would satisfactorily address potential risks on human health. No significant operational impacts are anticipated, with water supplies in the area provided via piped services.	<b>No</b>
<b>1.9</b> Will there be any risk of major accidents that could affect human health or the environment?	<b>No</b>	No significant risk is predicted having regard to the nature and scale of development. Any risk arising from construction will be localised and temporary in nature. The site is not at risk of flooding. The site is outside the consultation / public safety zones for Seveso / COMAH sites.	<b>No</b>
<b>1.10</b> Will the project affect the social environment (population, employment)	<b>Yes</b>	Population of this urban area would increase. Housing would be provided to meet existing demand in the area.	<b>No</b>

<p><b>1.11</b> Is the project part of a wider large scale change that could result in cumulative effects on the environment?</p>	<p><b>No</b></p>	<p>Application is zoned Z10 is in an existing built-up area with no other undeveloped zoned urban lands immediately adjoining the site.</p>	<p><b>No</b></p>
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## 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><b>Uncertain</b></p>	<p>No European sites located on or adjacent to the site. An Appropriate Assessment Screening and a Natura Impact Statement were provided in support of the application. Potential concerns that the proposal would impact an ex-situ qualifying interest (Light-bellied brent Goose) of the North Bull Island SPA, South Dublin Bay and River Tolka SPA, and Baldoyle Bay SPA.</p>	<p><b>Uncertain</b></p>
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<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><b>Uncertain</b></p>	<p>Potential concerns that the proposal would impact an ex-situ qualifying interest (Light-bellied brent Goose) of the North Bull Island SPA, South Dublin Bay and River Tolka SPA, and Baldoyle Bay SPA.</p>	<p><b>Uncertain</b></p>
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<p><b>2.3</b> Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?</p>	<p><b>No</b></p>	<p>The site and surrounding area does not have a specific conservation status or landscape of particular importance and there</p>	<p><b>No</b></p>
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		are no Protected Structures on site or in its immediate vicinity.	
<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?	<b>No</b>	No such features are in this urban location.	<b>No</b>
<b>2.5</b> Are there any water resources including surface waters, for example: rivers, lakes/ponds, coastal or groundwater which could be affected by the project, particularly in terms of their volume and flood risk?	<b>No</b>	The development will implement SUDS measures to control surface water run-off. The site is not at risk of flooding. Potential impacts arising from the discharge of surface waters to receiving waters are considered, however, no likely significant effects are anticipated.	<b>No</b>
<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?	<b>No</b>	Access to and from the site will be via Oscar Traynor Road. No significant contribution to traffic congestion is anticipated from the subject 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?	<b>No</b>		<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	<b>No</b>	No existing or permitted developments have been	<b>No</b>

and/or approved development result in cumulative effects during the construction/ operation phase?		identified in the immediate vicinity that would give rise to significant cumulative environmental effects with the subject project. Any cumulative traffic impacts that may arise during construction would be subject to a project construction traffic management plan.	
<b>3.2 Transboundary Effects:</b> Is the project likely to lead to transboundary effects?	<b>No</b>	No transboundary considerations arise	<b>No</b>
<b>3.3</b> Are there any other relevant considerations?	<b>No</b>	No	<b>No</b>
<b>C. CONCLUSION</b>			
<b>No real likelihood of significant effects on the environment.</b>	<input checked="" type="checkbox"/>	EIAR Not Required	
<b>Real likelihood of significant effects on the environment.</b>	<input type="checkbox"/>	EIAR Required	
<b>D. MAIN REASONS AND CONSIDERATIONS</b>			
The nature, characteristics and location of the proposed development means that it would not be likely to have significant effects on the environment.			

**Inspector:** Colin McBride

**Date:** 10<sup>th</sup> July 2024