



An
Bord
Pleanála

Inspector's Report

ABP-319873-24

Development	Large scale residential development for 104 no. apartments. A Natura Impact Statement (NIS) accompanies the planning application. www.richmondroadlrd.com .
Location	Richmond Road and Convent Avenue, Fairview, Dublin 3.
Planning Authority	Dublin City Council (DCC)
Planning Authority Reg. Ref.	LRD6041/24-S3
Applicant	Richmond Acquisitions Ltd.
Type of Application	Large-Scale Residential Development (LRD)
Planning Authority Decision	Grant Permission
Type of Appeal	<ol style="list-style-type: none">1. First Party v Conditions2. Third Party v Grant of Permission
Appellants	<ol style="list-style-type: none">1. Richmond Acquisitions Ltd. (Applicant, First Party)

2. Mary Burns on behalf of Convent Avenue Residents (Appellants, Third Party)

Observers

1. Linda O'Dwyer & Berni Fleming

Date of Site Inspection

6th August 2024

Inspector

Anthony Kelly

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1.0 Site Location and Description

- 1.1. The subject site has frontage onto both Richmond Rd. and Convent Ave. in the northern area of Dublin city. It is immediately adjacent to the south/south east of St. Vincent's Hospital, Fairview and approx. 500 metres south east of Tolka Park.
- 1.2. The site is an irregularly shaped site containing both commercial units and houses. A single-storey AXA repair centre with a car parking area to the front, and no. 211 Richmond Rd. (a semi-detached three-storey over basement house), address Richmond Rd to the south. Six two-storey semi-detached houses (nos. 6-10 and no. 21), a single storey Ace Autobody repair commercial unit with a forecourt to the front, and a two-storey detached building (Rose Cottage) address Convent Ave to the east.
- 1.3. The grounds of St. Vincent's Hospital, Fairview are to the north and west of the site. The hospital is accessed from Convent Ave. A two-storey detached protected structure (RPS no. 8789) within the hospital grounds is to the south west of the subject site (Brooklawn). Another protected structure within the hospital grounds, Richmond House (RPS no. 8788), is also in relative proximity to the north west of the site boundary. There is an apartment block, Richmond Hall, on the opposite side of Richmond Rd. There is a contemporary style development of four houses (one detached and three townhouses) on the corner of Richmond Rd. and Convent Ave. There is two storey terraced housing on the east side of Convent Ave.
- 1.4. The site has an area of 0.4892 hectares (0.41 hectares net¹).

2.0 Proposed Development

- 2.1. Permission is sought for:
 - the demolition of the existing commercial car repair/mechanic buildings and associated outbuildings/structures at Richmond Rd. and Convent Ave. and nos. 6-10 Convent Ave., no. 21 Convent Ave., and Rose Cottage,

¹ Land within the applicant's control i.e. not land on Richmond Rd. or Convent Ave.

- construction of 104 no. apartments to be provided in two buildings, A and B, and the refurbished no. 211 Richmond Rd;
 - Block A – part four and part five storey building fronting Richmond Rd containing 18 no. apartments (13 no. 1-bed and 5 no. 2-bed) with balconies/terraces to the southwest and northeast elevations,
 - Block B – part two to part six storey building fronting Convent Ave. containing 82 no. apartments (35 no. 1-bed and 47 no. 2-bed) with balconies/terraces to the southeast, southwest, and northwest elevations,
 - refurbishment of no. 211 Richmond Rd. to provide 4 no. 1-bed apartments,
- 32 no. car parking spaces, 3 no. motorcycle spaces, 156 no. bicycle spaces, 56 no. visitor bicycle spaces,
- public open space, communal amenity space, loading bay, landscaping, lighting, green roofs, PV panels, ESB substation, plant room, waste rooms, site clearance and all associated site works,
- alterations to existing boundaries including replacement of the concrete block wall on the northwest boundary and repair of sections of the northern boundary wall,
- works associated with the provision of utility and services connections including foul, storm, and watermain and upgrade works to footpaths/public road on Richmond Rd. and Convent Ave.

2.2. The following tables set out some key aspects of the proposed development.

Table 1 – Key Figures²

Site Area (Gross/Net)	0.481 hectares gross / 0.41 hectares net
Number of Units	104 no. units (18 no. in block A, 82 no. in Block B, and 4 no. in refurbished no. 211 Richmond Rd)
Building Heights	Block A – part four/part five storeys, Block B – six storeys (the part two storey area is very limited), no. 211 Richmond Road – existing three storeys over basement

² As per planning application received by DCC

Net Density/Units per hectare (d/uph)	254dph net
Plot Ratio	2.16
Site Coverage	32%
Dual Aspect	53 no.
Open Space/Amenities	192sqm (4.6%) public open space 622sqm communal space required, 634sqm provided
Part V	20 no. apartments (10 no. 1-bed and 10 no. 2-bed)
Pedestrian/Cycle Infrastructure	New/upgraded 2 metres wide footpath along Convent Ave.
Car and Bicycle Parking	<u>Car parking</u> – 32 no. spaces (28 no. resident spaces, two car sharing spaces, and two on-street visitor spaces) <u>Motorcycle parking</u> – Three spaces <u>Bicycle spaces</u> – 156 no. resident spaces, 52 no. visitor spaces, eight cargo bike spaces

Table 2 – Unit Breakdown

Type	Bedroom Number		Total
	1-Bed ³	2-Bed	
Apartment	52	52	104 (100%)
Total	52 (50%)	52 (50%)	104 (100%)

2.5. The site owner is Ace Autobody Ltd. The car repair centres on site are relocating to premises in Coolock. Nos. 211 Richmond Rd. (which currently has four apartments) and 6-9 Convent Ave. are rented. The other three buildings are used for

³ This includes the four refurbished 1-bed apartments in no. 211 Richmond Rd.

administrative/office functions and staff accommodation. Page 8 of the Heritage Impact Assessment notes that the site has had a crash repair centre use since the mid-1960's.

2.6. The site is an irregularly shaped site in a mixed-use urban area. It is proposed to clear the site of all existing structures except no. 211 Richmond Rd. which it is proposed to refurbish. Proposed Block A addresses Richmond Rd. and it is set back largely in line with no. 211 and Brooklawn. Block B addresses Convent Ave. It has a relatively long footprint parallel to the street. Communal open space for the site is north of Block A and west of Block B with a small public open space area between Block A and Richmond Rd. Vehicular access/car parking provision is in the northern area of the site at surface level. The construction phase is anticipated to last twenty four months. It appears that it is to be constructed in a single phase.

2.7. In addition to standard plans and particulars the planning application was accompanied by a number of supporting documents. These include, but are not limited to:

- a 'Planning Report and Statement of Consistency' (PR&SC) dated March 2024,
- an 'Architectural Design Statement' dated February 2024
- an 'Architectural Statement of Response to LRD Opinion' dated February 2024,
- an 'Appropriate Assessment Screening & Natura Impact Statement' (AA screening & NIS) dated 20th March 2024,
- an 'EIA Screening Report (Stage 3)' dated March 2024,
- a 'Statement in Accordance with Article 103 (1A)(a) of the Planning & Development Regulations, 2001 (as amended)' dated March 2024,
- a 'Housing Quality Assessment' and 'Schedule of areas and accommodation',
- 'Daylight & Sunlight Assessments' dated 14th March 2024
- a 'Heritage Impact Assessment' dated 20 March 2024,
- an 'Archaeological Assessment' dated March 2024,
- an 'Ecological Impact Assessment' (EclA) dated 20th March 2024,
- a 'Traffic and Transport Assessment' (TTA) dated March 2024,

- an 'Engineering Services Report' dated March 2024,
- a 'Flood Risk Assessment' (FRA) dated March 2024,
- a 'Demolition Justification Report' dated 19th March 2024,
- a 'Social and Community Infrastructure Audit/Assessment' dated March 2024, and,
- 'Verified Photomontages & CGIs' dated 19th March 2024.

3.0 Planning Authority Pre-Application Opinion

- 3.1. An LRD meeting took place on 1st December 2023 between the applicant and Dublin City Council (DCC) following an earlier section 247 meeting.
- 3.2. In the LRD opinion issued on 4th January 2024 DCC was of the opinion that the documentation submitted constituted a reasonable basis on which to make an application for the proposed LRD. The planning authority specified information that should be submitted with the application. This related to planning, parks and landscaping, transportation, drainage, conservation, and archaeology issues and the relevant documentation required in table 15.1 of the Dublin City Development Plan (DCDP) 2022-2028.

4.0 Planning Authority Decision

4.1. Decision

- 4.1.1. DCC granted permission for the proposed development subject to 28 no. conditions. Of particular relevance to this appeal are conditions 5 and 6 which are subject of the

first party appeal. Condition 5 reduces the height of Block B. Condition 6 clarifies that the overall permission is for 90 no. units⁴.

Table 3 – Unit Breakdown Following DCC Condition 5

Type	Bedroom Number		Total
	1-Bed ⁵	2-Bed	
Apartment	49	41	90 (100%)
Total	49 (54.4%)	41 (45.6%)	90 (100%)

4.2. Planning Authority Reports

- 4.2.1. The planning authority’s Planning Report contains, inter alia, a brief summary of pre-planning consultation, site zoning, a planning history, policy framework, and a summary of reports from internal sections and observations/submissions from third parties and prescribed bodies. The report also contains a planning assessment. It can be summarised as follows, using some, but not all, of the subheadings in the report.

Principle of development and architectural design – The principle of development is generally acceptable. In terms of design and materials it is modern, consistent with other schemes in the vicinity and the blocks would not be overly obtrusive.

Demolition – The demolition of the buildings is acceptable.

Open space – The deficit in public open space shall be made up by a financial contribution in lieu. In terms of private open space, the balcony layout is reasonable. The communal open space area is satisfactory in area and is well landscaped.

Dual aspect – This is generally acceptable and provides adequate residential amenity.

Density, site coverage and plot ratio – The density (254dph) is marginally above the residential density range for this location (50-250dph) and suggests that it is consistent with relevant Guidelines but requires further examination. The site coverage (32%) is significantly below the acceptable DCDP 2022-2028 site coverage range (50-60%). The plot ratio (2.16) is within the acceptable range (1.5-3.0).

⁴ These conditions are set out in full in paragraphs 8.3.1 and 8.4.1, respectively, of this report.

⁵ This includes the four 1-bed apartments in no. 211 Richmond Rd.

Height – The standard of residential amenity for future residents would be acceptable while providing buildings of strong street presence to both streets. The height of Block A is not excessive. Block B would create a significant presence on Convent Ave. The DCDP 2022-2028 requires that enhanced density and height be accommodated where practical but also that existing amenities are respected and maintained. A predominantly four-storey block is more appropriate and would present a more proportional scale to the existing housing. The northern portion could be maintained at six storeys as it is not as sensitive a location. The fourth and fifth floors in the southern area (14 no. units) should be omitted. The block would have a stepped profile rising northwards on the relatively narrow street which would serve as a transition from the domestic scale of the avenue to the greater building scale in the hospital site.

Unit mix/schedule of accommodation – The mix is considered acceptable.

Unit size/floor areas – The planning authority is satisfied with unit sizes and layouts.

Childcare facilities – The scheme would not generate a sufficient demand to require a viably sized facility.

Social infrastructure audit – The scheme would not generate such demand as could not be met by the existing school system.

Daylight & sunlight assessment – The scheme would have a minor impact on the majority of existing properties in terms of natural lighting, but this would be within accepted parameters and would not overall impact negatively on existing amenities. The planning authority is satisfied overall that the development would provide adequate levels of natural light for proposed units.

Environmental considerations – AA/NIS – On the basis of the NIS, the project either alone or in combination with other plans or projects, will not adversely affect the integrity of European sites. *EIA* – The development would not, by itself or in combination with other development, give rise to significant detrimental impacts on the environment and given the scale, nature, and location of the proposed development, an EIAR is not required. *EcIA* – Subject to identified mitigation measures being applied the proposed development would not have an undue impact on habitat, flora or fauna.

- 4.2.2. The report concludes, 'The proposed development is located at an appropriately zoned and serviced inner suburban brownfield redevelopment site with the benefit of

Z1 residential zoning within reasonable proximity of good quality public transport and forms part of an emerging cluster of higher density taller buildings. The amendment to Block B to reduce its height would result in a development which would not impact unduly on existing residential amenities and which would contribute to the built character of the area and would not detract from the visual amenity of the streetscape or the setting of the adjacent protected structure’.

4.2.3. **Other Technical Reports**

Transportation Planning Division – Commentary is provided. No objection subject to conditions.

Engineering Dept. (Drainage Division) – No objection subject to conditions.

Environmental Health Officer – Conditions recommended.

Archaeology, Conservation & Heritage (Architectural Conservation Officer) – Commentary is provided. A grant of permission is recommended, subject to conditions.

Archaeology, Conservation & Heritage (Archaeologist) – Commentary is provided. The site is partially within the zone of archaeological constraint for recorded monument DU018-017 (castle possible site). A condition is recommended to be attached to any grant of permission.

Parks, Biodiversity & Landscape Services – Commentary is provided. No objection subject to inclusion of appropriate conditions.

4.3. **Prescribed Bodies**

Uisce Éireann – No objection in principle. Recommended conditions specified.

4.4. **Third Party Observations**

- 4.4.1. 12 no. observations were received. Nine were from local residents and three were from councillors. The main issues raised are largely covered by the third party grounds of appeal, as summarised in section 7.2 of this inspector’s report, and the third party response to the applicant’s grounds of appeal, as summarised in section 7.4. Issues raised that were not referenced in the appeal or response to the first party appeal are:

- External finishing materials
- 5% cultural use
- Cumulative increase in traffic movements with other permitted developments
- Demolished material should be reused on site to reduce waste.

5.0 Planning History

5.1. There has been a substantial planning history on site and in the general area. The most relevant applications are as follows:

On site

5.2. P.A. Reg. Ref. 2443/09 / ABP Reg. Ref. PL 29N.234609 – In 2010 permission was granted for demolition of structures and construction of a residential development of 77 no. apartments in three blocks ranging in height from part two storeys to five storeys over a basement car park. A creche was also permitted. This development was not constructed but it is referenced in the application, in particular in relation to daylight and sunlight impact.

Adjacent to west, north east, north, and north east

5.3. P.A. Reg. Ref. LRD6009/23-S3 / ABP Reg. Ref. ABP-317438-23 – In 2023 a ten-year permission was granted on the grounds of St. Vincent's Hospital Fairview for a redevelopment of the site including a new hospital building, nine residential blocks, community facilities, and public open space. The residential development comprises 811 no. apartments in blocks ranging from part two to part thirteen storeys. Brooklawn and Richmond House are to be refurbished for hospital administrative use. Access is from Richmond Road and Convent Avenue, with a separate vehicular access to the residential area from Richmond Road. 779 no. residential units were permitted with a maximum height of eleven storeys.

Opposite side of Convent Ave. to north east (Pete's Antiques)

- 5.4. P.A. Reg. Ref. 3539/23 / ABP Reg. Ref. ABP-317442-23 – In 2024 the Board granted permission for demolition of a light industrial warehouse and construction of 37 no. 1-bed apartments in a 3-4 storey block. The applicant is a housing association providing step-down accommodation for older people.

West of the site on the opposite side of Richmond Road (Leyden's)

- 5.5. P.A. Reg. Ref. LRD6006/23-S3 / ABP Reg. Ref. ABP-317136-23 – In 2023 permission was granted for demolition of industrial structures and construction of a mixed-use development including 133 no. apartments, artist studios, retail, creche, and gym in three blocks up to ten storeys in height (maximum height of eight storeys and 107 no. units conditioned).
- 5.6. ABP Reg. Ref. ABP-312352-22 (SHD application) – In 2024 permission was refused on an adjoining site to the above for demolition of structures and construction of a part six to part ten storey structure containing 183 no. BTR apartments, café/retail unit etc. because of height/dominance/overbearing/overlooking.

South east of the site (9/9A Richmond Ave)

- 5.7. P.A. Reg. Ref. 3483/22 – In 2023 permission was granted for demolition of single storey industrial units and construction of 28 no. apartments in two buildings of three and six storeys. This is under construction.

East of the site (15 Richmond Ave)

- 5.8. P.A. Reg. Ref. 3295/21 – In 2022 permission was granted for demolition of warehousing/sheds and construction of 35 no. residential units in two blocks of three and six storeys. This is under construction.

East of the site (17 & 19 Richmond Ave)

- 5.9. P.A. Reg. Ref. 3657/21 / ABP Reg. Ref. ABP-313553-22 – In 2024 permission was granted for demolition of a house and shed and construction of 27 no. residential units in two blocks of five and six storeys (21 no. approved).

6.0 Policy Context

6.1. Project Ireland 2040 National Planning Framework (NPF)

6.1.1. The NPF is a high level strategic plan to shape the future growth and development of the country to 2040. It is focused on delivering 10 National Strategic Outcomes (NSOs). NSO 1 is 'Compact Growth', and it is expanded upon on page 139 of the NPF. It states, inter alia, 'From an urban development perspective, we will need to deliver a greater proportion of residential development within existing built-up areas of our cities, towns and villages ... Combined with a focus on infill development, integrated transport and promoting regeneration and revitalisation of urban areas, pursuing a compact growth policy at national, regional and local level will secure a more sustainable future for our settlements and for our communities'.

6.1.2. Relevant National Policy Objectives (NPOs) include:

NPO 3(b) – Deliver at least half (50%) of all new homes that are targeted in the five Cities and suburbs of Dublin, Cork, Limerick, Galway and Waterford, within their existing built-up footprints.

NPO 4 – Ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being.

NPO 13 – In urban areas, planning and related standards, including in particular building height and car parking will be based on performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.

NPO 33 – Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.

NPO 35 – Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

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

- 6.2.1. The Guidelines set out policy and guidance in relation to the planning and development of urban and rural settlements, with a focus on sustainable residential development and the creation of compact settlements. There is a renewed focus in the Guidelines on the renewal of existing settlements and on the interaction between residential density, housing standards, and quality urban design and placemaking to support sustainable and compact growth.
- 6.2.2. The site is in a 'city – urban neighbourhood' location. This designation has a density range of 50-250dph. This is further addressed in section 8.2 of this report.

6.3. Urban Development and Building Heights Guidelines for Planning Authorities (December 2018)

- 6.3.1. These Guidelines are intended to set out national planning policy guidelines. Reflecting the NPF strategic outcomes in relation to compact urban growth, there is significant scope to accommodate anticipated population growth and development needs by building up and consolidating the development of our existing urban areas.

6.4. Sustainable Urban Housing: Design Standards for New Apartments (July 2023)

- 6.4.1. The overall purpose of these Guidelines is to strike an effective regulatory balance in setting out planning guidance to achieve both high quality apartment development and a significantly increased overall level of apartment output. They apply to all housing developments that include apartments that may be made available for sale, whether for owner occupation or for individual lease.

6.5. Eastern & Midland Regional Assembly Regional Spatial & Economic Strategy 2019-2031 (RSES)

- 6.5.1. The RSES provides for the development of nine counties / twelve local authority areas, including DCC, and supports the implementation of the NPF. It is a strategic plan which identifies regional assets, opportunities, and pressures and provides appropriate policy responses in the form of Regional Policy Objectives. It provides a framework for

investment to better manage spatial planning and economic development throughout the region.

6.6. Dublin City Development Plan (DCDP) 2022-2028

- 6.6.1. The site is in an area zoned 'Z1 – Sustainable Residential Neighbourhoods' on map E which has a zoning objective 'To protect, provide and improve residential amenities'.
- 6.6.2. Map E shows that the proposed development is within the boundary of a 'castle possible site' (DU018-017) in the record of monuments and places which is to the north west. There are also two protected structures identified to the west; Brooklawn, RPS no. 8789 ('(within the grounds of St. Vincent's Hospital), bow-fronted House, with 19th century red brick wall to its western boundary and two gate piers - see *Convent Avenue*') and Richmond House, RPS no. 8788 ('(in the grounds of St. Vincent's Hospital), to include former chapel and courtyard with outbuildings – see *Convent Avenue*'). There is also a specific objective for a 'Roads, Street and Bridge Schemes' along Richmond Rd.
- 6.6.3. The Plan does not give a specific density range for this type of inner suburban area. The most applicable designations in table 1 of appendix 3 are the city centre and canal belt (100-250dph) and the outer suburbs location (60-120dph). This is further addressed in section 8.2 of this inspector's report.

6.7. Natural Heritage Designations

- 6.7.1. The nearest European site is South Dublin Bay and River Tolka Estuary Special Protection Area (SPA) approx. 1.2km to the south east. The nearest designated area of natural heritage is Royal Canal proposed Natural Heritage Area (pNHA) approx. 650 metres to the south of the site.

6.8. EIA Screening

- 6.8.1. This subsection should be read in conjunction with appendix 1 (EIA Preliminary Screening) and appendix 2 (EIA Screening Determination) of this report.
- 6.8.2. Paragraph 10(b) of Part 2 of Schedule 5 of the Planning & Development Regulations, 2001 (as amended), and s.172 (1)(a) of the Planning & Development Act, 2000 (as

amended), provides that EIA is required for infrastructure projects that would equal or exceed, inter alia:

- construction of more than 500 dwelling units, or,
- 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 means a district within a city or town in which the predominant land use is retail or commercial use.

6.8.3. Paragraph 15 of Part 2 provides that 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'. Section 172 (b) of the 2000 Act (as amended) has similar provision.

6.8.4. The proposed development of 104 no. residential apartments on a site of 0.481 hectares (gross) on residentially zoned brownfield land in an inner suburban city area is significantly below the applicable numerical and area thresholds for mandatory EIA.

6.8.5. Article 109 (2B)(a) of the 2001 Regulations states 'Where a planning application for sub-threshold development is not accompanied by an EIAR but is accompanied by the information specified in Schedule 7A and sub-article (2A) ... the Board shall carry out an examination of, at the least, the nature, size or location of the development for the purposes of a screening determination'. The application was accompanied by an EIA Screening Report. Page 54 of this states, inter alia, 'Within Schedule 7A, information to be provided by the applicant or developer for the purposes of screening sub-threshold development for EIA is set out. The Proposed Development has been assessed in accordance with this information'. I note the application is also accompanied by a number of relevant supporting assessments and documents such as a Statement in Accordance with Article 103 (1A)(a) of the Planning & Development Regulations, 2001 (as amended), an AA Screening Report & NIS, TTA, Heritage Impact Assessment, Archaeological Assessment, EclA, FRA, Engineering Services Report, and an Architectural Design Statement.

6.8.6. Flooding issues are referenced in the third party grounds of appeal. Item 17 states that 'A condition if this planning is approved a further EIA (Environmental Impact Assessment) taking into account the cumulative effect given the low-lying land, close

proximity to the River Tolka, the tidal impact on the river and the development and any negative impact on the existing homes on Convent Ave, Richmond Lodge or Richmond Road to require amendments to the proposed development' [sic]. However, contrary to the claim that the site is located in a flood zone A/B area, the site is in a flood zone C area. The applicant's FRA does not consider flooding to be an issue at this location and I accept this conclusion. In addition, Uisce Éireann has not expressed any concern about infrastructure capacity.

- 6.8.7. Having regard to the nature, size, and location of the proposed development and to the provisions of Schedule 7A of the 2001 Regulations (as amended), I have concluded that the proposed development is not likely to have significant effects on the environment, as set out in the appendix to this inspector's report. EIA, therefore, is not required. In this regard I note that the proposed development is residential in nature, the number of units proposed and the site area are significantly below the respective thresholds, my AA in section 9 of this inspector's report concludes that the project individually or in combination with other plans or projects would not be likely to give rise to significant effects on European sites, and the development location on an inner suburban brownfield site surrounded by mixed-use development and roads infrastructure, does not have any particular environmental sensitivity.

7.0 The Appeal

7.1. First Party Appeal

- 7.1.1. A first party appeal against conditions 5 and 6 was received by the Board. The main issues raised can be summarised as follows.
- The application provided a justification for the development as proposed. However, the applicant acknowledges the planning authority's concerns in respect of building height and impact on residential amenity and, should the Board share these concerns, an alternative proposal addressing them, while providing a more appropriate architectural and urban design solution than condition 5, is proposed by way of an alternative reduction of massing at fourth and fifth floors.

- The proposed amendments to Block B are detailed in section 3 of the grounds of appeal in terms of e.g. setbacks, separation distances, aspect, additional communal open space, adjacent land uses, transitions in building heights and building height itself, townscape/visual impact, daylight and sunlight, and density.
- Table 3.1 of the grounds of appeal is a comprehensive assessment of the revised proposal in the context of demonstrating consistency with the criteria of table 3 (Performance Criteria in Assessing Proposals for Enhanced Height, Density and Scale) of appendix 3 (Achieving Sustainable Compact Growth Policy for Density and Building Height in the City) of the DCDP 2022-2028 demonstrating to the Board the appropriateness of the proposed building heights and densities.
- Revised drawings and schedule of areas is submitted as appendix 2 to the grounds of appeal. There are 96 no. units in the revised proposal.
- The applicant is seeking an alternative wording of condition 5 referencing the plans and particulars submitted as part of the grounds of appeal with an associated amendment to condition 6.
- The proposed amendments would revise the unit mix for Blocks A and B to 48 no. 1-beds and 44 no. 2-beds i.e. not compliant with SPPR 1⁶ of the Apartment Guidelines (2023). Should the Board require compliance with SPPR 1, alternative unit mixes for revised floors four and five are suggested which can be incorporated into the same volume/massing of floorplates.
- The Board is requested to restrict its consideration to conditions 5 and 6 only.
- Appendices attached to the grounds of appeal include:
 - appendix 2 – Architectural Statement, revised drawings, and schedule of areas and accommodation,
 - appendix 3 – revised CGIs and photomontages,
 - appendix 4 – Daylight & Sunlight Statement, and,
 - appendix 5 – revised drawings illustrating alternative condition 5 (SPPR 1).

⁶ Housing developments may include up to 50% one-bedroom or studio type units (with no more than 20-25% of the total proposed development as studios)

7.2. Third Party Appeal

7.2.1. The third party appeal was received from Mary Burns, 1 Convent Ave. on behalf of Convent Avenue Residents. There are 12 no. names from seven Convent Ave. addresses attached to the appeal. The main points made can be summarised as follows:

- While the reduction in height in the decision is welcomed it is still an overbearing development. A more fitting development would be two to three storeys stepping up to four storeys at the western end. A further 10 metres setback from Convent Ave is required. It is far greater in scale, density, and proximity to one and two storey houses than recent developments in the immediate area e.g. 3295/21 and 3657/21, which are on a much wider road.
- Convent Ave is only 4.005-4.2 metres wide. It should be widened through the use of the development land. Footpaths are not currently the required 1.8 metres wide, and they should be widened. Two cars cannot pass without mounting the footpath. There is concern about the safety of pedestrians and cyclists as a result of the proposed development. There should be no vehicular entrance on Convent Ave. and the existing Richmond Rd. access should be used.
- There is no space for service vehicles to park or safely turn. There are inadequate car parking spaces. A set down area should be provided within the development. Concern in relation to emergency services access. Richmond Lodge is private and access cannot be guaranteed.
- The proposed development is overly dependent on the Key Public Transport Corridor which is almost 1km away.
- The development has minimum or below minimum standards which will provide substandard homes and environs and negatively impact existing residents. It will tower over existing houses and the new hospital. It breaches the aim of the DCDP 2022-2028. It will fundamentally change the avenue. It is overdevelopment of the site.
- The proposed density of 254uph exceeds density standards and should be revised. There are too many 1-bed apartments. More three and four bed units should be conditioned.

- The proposed development breaches the DCDP 2022-2028 approach to taller buildings.
- The required useable open space for residents is lacking. It will have no sunlight and should be flipped with the apartment block, giving Convent Ave. a softer streetscape.
- The visual amenity and privacy for adjacent houses will be severely impacted. Overlooking impact. East elevation balconies and windows should be angled to the north or south. The Daylight & Sunlight Assessment shows eight existing windows will be significantly affected. There were no visualisations in the shadow study.
- No CCTV should view or record any of Convent Ave.
- There is no construction management plan. Issues related to construction workers parking, construction traffic, cranes, working hours etc. are referenced.
- Concern about impact of pile driving on existing houses. Independent engineering surveys should be carried out before, during, and after the development.
- The Convent Ave. flood and foul systems should be upgraded to current standards at the developer's expense before development starts or flood and foul wastewater should directly enter the Richmond Rd. system.
- The attenuation system should be designed for a 1 in 200-year return period. Concern is expressed in relation to flood risk.
- There is no childcare provision and same should be provided for.

7.2.2. It is requested that the application be refused in its current form, and if the Board grants permission, an appendix is attached with 25 no. conditions set out.

7.3. **First Party Response**

7.3.1. The main points made in the first party response to the third party appeal can be summarised as follows, and under the subheadings used by the applicant in responding to third party concerns:

- The validity of the appeal is questioned⁷.
- The development submitted to DCC provides an appropriate scale and density and accords with the DCDP 2022-2028. Condition 5 of the decision reduced the number of units by 14 no. An alternative solution addressing the planning authority's concerns was suggested in the first party grounds of appeal, should the Board share the planning authority's concerns.
- Extracts from the planning authority's Planning Report are reproduced demonstrating the appropriateness of the proposed development in the context of issues raised in the third party appeal.

Condition No. 5 of DCC decision is not sufficient and the development is still overbearing and out of context with the surrounding environment

- The design and scale of the original proposal responds to and respects the surrounding context, has regard to the changing context of the area, enhances the streetscape, integrates appropriately at a scale and massing which has regard to recent permissions, is supported by policy documents, and has sufficient regard to the existing neighbourhood.
- Notwithstanding, should the Board have similar concerns to the planning authority in respect of existing houses on Convent Ave., the amended scheme submitted with the first party grounds of appeal would address them. The revised proposals deliver an improved relationship with neighbouring properties.
- A further reduction in height to two to three storeys stepping up to four storeys at the western end would underutilise the land and not provide a viable format for redevelopment.

Excessive building heights and residential density

- While the transition in scale is relatively significant it is not unusual in an inner suburban environment and is reflected in recent permissions in the area, which is changing the context with increased building heights and density. The scale and

⁷ As all signatories to the third party grounds of appeal made either individual or collective submissions to DCC I do not consider there is any validity issue.

density is appropriate for the site and accords with the objectives of policy documents.

- The stepped approach from part two to part six storeys, with setbacks of upper floors, helps avoid abrupt transition in scale in the context of adjacent properties.
- An excerpt from the Board's direction in ABP-313553-22 (17 Richmond Ave.) is cited in relation to visual impact and scale. This permission provides a precedent for increased building heights and transition in scale in this inner suburban area when compared with existing lower density two storey houses.
- The site is in an inner suburban area where heights of six storeys plus are generally recommended. In outer city (suburbs) 3-4 storey heights are promoted as the minimum with greater heights considered on a case by case basis. Appendix 2 contains an updated assessment demonstrating compliance with table 3 of appendix 3 of the DCDP 2022-2028.
- The indicative density range of 60-120dph for outer suburban sites does not apply, and this is supported by DCC. The site is considered to be in an urban neighbourhood as referenced in the Compact Settlement Guidelines (2024) with a density range of 50-250dph. The proposed 254dph density is marginally outside this but is appropriate for the site.

Compliance with Z1 zoning objective

- Residential use is included as a permitted in principle use under the Z1 zoning and therefore the proposed development is acceptable in principle.
- The proposal has had regard to the amenity of neighbouring properties through the stepped approach to building height and setbacks of upper floors, while acknowledging the changing context of this inner suburban location. The design and layout have been informed by the relationship with the hospital lands in that Block B balconies and communal amenity space have been orientated towards the western elevation where no adjoining buildings are proposed.
- The planning authority Planning Report accepts the site coverage and plot ratio.

The proposed development will negatively impact on the residential amenity of Convent Avenue, Merville Villas and Richmond Lodge

- Daylight/Sunlight – While the proposed development will have a perceptible level of impact to the daylight of many of the windows in the study the proposed development will have no substantial change in impact from that of the permitted development. The planning authority must apply discretion having regard to local factors including specific site constraints and balancing that assessment against the desirability of achieving wider planning objectives. The site is appropriate for residential development at a density and scale greater than the prevailing streetscape. The reduction in vertical sky component (VSC) for Richmond Lodge houses is not unreasonable and these dual aspect houses will still have light amenity.
- Setbacks and visual impact – The planning authority’s Planning Report stated the separation distance on the street is reasonable and there is a transition space between the building edge and site edge. The Landscape and Visual Impact Assessment (LVIA) states the proposed development is a continuation of the area’s inner suburban and urban evolution. It also references the low value of the existing townscape and heights of permitted development.
- Overlooking – The planning authority Planning Report acknowledges that separation distances across Convent Ave. are not insignificant and are across the street where there is less expectation of privacy. The separation distances prevent unacceptable overlooking.

Traffic and transport concerns

- The application proposes a 2 metres wide footpath, parking and loading bays, and road widening along the length of the site boundary on Convent Ave. This will improve the public realm. A carriageway width of 5.0 metres is proposed. The proposed development will actually reduce traffic on Convent Ave. when compared to the existing car repair garage use. The proposed vehicular access will replace a number of existing accesses.
- Unobstructed turning manoeuvres have been outlined for refuse, emergency, and delivery vehicles.

- The rationale for the level of car parking provided is set out.

The proposed development will provide substandard homes and result in a transient community

- The proposed unit mix as applied for complies with SPPR 1 of the Apartment Guidelines (2023). DCC considered the mix to be acceptable.

Construction concerns

- Construction parking is to be provided within the development site and will not be permitted on surrounding streets. Construction traffic access will be via Richmond Rd. Construction traffic will have minimal impact on the road network.

Drainage concerns

- A confirmation of feasibility has been received from Uisce Éireann. There will be no increase to pluvial flood risk as a result of the proposed development. The site is at a low risk of fluvial or coastal flooding.

Environmental

- Concerns in respect of the cumulative impacts of developing this and other sites in the area, and the potential flood risk associated with same, have been considered and are deemed to not be significant.

Inadequate childcare facilities for the proposed development

- This was addressed in the Social & Community Infrastructure Audit/Assessment. The requirement for a childcare facility does not arise and existing/permitted facilities in the area will be sufficient to meet any additional demand generated by the proposed development. DCC accepted this.

7.3.2. Appendices have been submitted with the response to the third party appeal including:

Appendix 2 – Compliance with Table 3 of Appendix 3 of the DCDP 2022-2028

Appendix 3 – Response Prepared by CS Consulting

Appendix 4 – Response Prepared by Digital Dimensions

7.4. Third Party Response

7.4.1. The main issues raised, other than those also cited in the original grounds of appeal, can be summarised as follows:

- The decision makers should walk the site. The development has disregarded the reasoning for the reduction in height.
- The development should be reduced to two storeys along Convent Ave. stepping up to a maximum three storeys on the western side.
- The site is not a brownfield site as stated.
- Residents of the houses to be demolished will be at risk of being homeless. The landlord is the developer. Modern family homes should not be demolished.
- Residents concerns have not been addressed in the revised proposal and there has been no consultation.
- The development boundary extends to the appellants' properties. The development boundary should only extend within the development boundary.
- The photomontages are misleading as there are double yellow lines on both sides of Convent Ave. and the angles used distort the overbearing impact.
- The third party response comments on, and does not agree with the content of, a number of the paragraphs in the first party grounds of appeal i.e. paragraphs 3.4, 3.5, 3.8, 3.9, 3.10, and 3.14.
- The proposed fourth floor amenity area should not be considered adequate amenity space, and it would enable direct overlooking.
- The provisions of table 3.1 of the applicant's grounds of appeal are disputed and a counter-position is provided.

7.5. Planning Authority Response

7.5.1. DCC requests the Board uphold its decision and, if permission is granted, conditions should be applied relating to development contributions, a bond, payment of a contribution in lieu of the open space requirement not being met (if applicable), social housing, naming and numbering, and a management company.

7.6. Observations

- 7.6.1. A joint observation was received from Linda O'Dwyer, 5 Merville Villas and Berni Fleming, 231 Richmond Rd. The issues raised are generally covered by the third party grounds of appeal as per section 7.2 of this inspector's report.

8.0 Assessment

Having examined the application details and all other documentation on file, including the first and third party grounds of appeal and the responses to same, and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal, other than those set out in detail within the EIA Screening and AA sections, are as follows:

- Zoning
- Density and Height
- Planning Authority Condition 5
- Planning Authority Condition 6
- Impact on the Residential Amenity of Adjoining Properties
- Residential Amenity for Future Occupants
- Roads and Traffic
- Principle of Demolition
- Architectural Conservation and Archaeology
- Community/Cultural Use and Childcare

8.1. Zoning

- 8.1.1. The subject site is zoned 'Z1 – Sustainable Residential Neighbourhoods' in the DCDP 2022-2028. Its zoning objective is 'To protect, provide and improve residential amenities'. Residential development is a permissible use as per section 14.7.1 of the

Plan. Having regard to the foregoing, I consider that the principle of the proposed residential development is acceptable, subject to the detailed considerations below.

8.2. Density and Height

- 8.2.1. Third parties consider that the density and height of the proposed development, specifically Block B, are excessive for the area. While the planning authority's condition 5 is welcomed in the third party grounds of appeal, it is not considered to go far enough. Issues of density and height are fundamental to my consideration of condition 5, as addressed in greater detail in section 8.3 of this inspector's report. However, in this section I assess the principal of the density and height of Blocks A and B of the proposed development at a broad, policy framework, level.

Density

- 8.2.2. The provision of 104 no. units on a 0.41 hectare site is a density of approx. 254dph. Page 46 of the applicant's Planning Report & Statement of Consistency (PR&SC) considered the subject site to be a 'city-centre' location in the context of the Compact Settlement Guidelines (2024) with an applicable density range of 100-300dph.
- 8.2.3. A rationale for the 254dph density in the context of the DCDP 2022-2028 was set out on pages 75-79 of the PR&SC where the site was described as inner suburban, infill, and brownfield. The Plan does not give a density range for an inner suburban area. The most applicable designations in table 1 (Density Ranges) of appendix 3 (Achieving Sustainable Compact Growth Policy for Density and Building Height in the City) are the city centre and canal belt (100-250dph) and the outer suburbs location (60-120dph). The PR&SC supports the inclusion of the proposed development in the higher density range by referencing nearby public transport provision and other permitted development in the area. I note that the area is located in zone 2 for car parking standards, as per map J of the Plan. Section 4.0 (Car Parking Standards) of appendix 5 (Transport and Mobility: Technical Requirements) of the Plan states that this zone occurs alongside key public transport corridors.
- 8.2.4. The planning authority's Planning Report (section 13.6) referenced the Compact Settlement Guidelines (2024) but considered that the site was a 'city – urban neighbourhood' for the purpose of the Guidelines. This designation has a density range of 50-250dph. The 254dph density 'is marginally above the maximum of the

range and suggests, on its face, that the scheme is consistent with the Guidelines but requires further examination'. The report acknowledged that density is an indicative standard and schemes outside the indicated range may be considered in the context of other factors such as quality, public realm, and streetscape.

- 8.2.5. Condition 5 of the DCC condition results in a density of approx. 220dph (90 units) while the applicant's suggested revised development would result in a density of approx. 234dph (96 units).
- 8.2.6. I agree with the planning authority's Planning Report that the applicable site description in the 2024 Guidelines is 'city-urban neighbourhood'. It states, '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 ... 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'.
- 8.2.7. The planning authority's Planning Report does not reference density in the context of the DCDP 2022-2028. I consider that the subject site location does not fit neatly into any of the ranges cited in table 1 of appendix 3. Notwithstanding, given the nature of the site uses and the type of development existing and permitted in the vicinity, and its location approx. 650 metres north of the Royal Canal and approx. 1km north of the city centre zoning, I consider it is more reflective of the city centre and canal belt designation (100-250dph) and it could not reasonably be described as an outer suburbs area.
- 8.2.8. Plot ratio and site coverage are other issues that help determine whether a proposed development would comprise overdevelopment of a site. For the proposed development the figures for these are 2.16 and 32% respectively. Table 2 (Indicative Plot Ratio and Site Coverage) of appendix 3 of the DCDP 2022-2028 does not include figures for an inner suburban area. Notwithstanding, the proposed plot ratio and site coverage are significantly below those cited for a 'central area' (2.5-3.0 and 60-90%). 2.16 is comfortably within the 1.0-2.5 range for an 'outer employment and residential area' with a site coverage well below the 45-60% indicated. In my opinion, this

demonstrates that the proposed development could not be considered as overdevelopment of the site.

- 8.2.9. Having regard to the foregoing, I consider that both the development as permitted by DCC (220dph) and that suggested in the applicant's grounds of appeal (234dph) would be consistent with the Compact Settlement Guidelines (2024). Notwithstanding, should the Board consider that the development submitted to DCC is appropriate and suitable, I do not consider that it should find itself constrained by the fact that the 254dph density is marginally outside the identified parameters as these are, ultimately, Guidelines.

Height

- 8.2.10. Proposed Block A is five storeys in height and proposed Block B is six storeys. The DCDP 2022-2028 does not include restrictions on building heights.
- 8.2.11. Section 3.1 of the Urban Development and Building Heights Guidelines for Planning Authorities (2018) states that building heights must be generally increased in appropriate urban locations. As set out under 'Density', above, I consider that the site is outside the city centre area, but it is in a more urban than suburban location. Section 1.9 of the Guidelines states that the scope to consider general building heights of at least three to four storeys in locations outside what would be defined as city and town centre areas must be supported in principle at development plan and development management levels. Section 1.10 identifies the canal ring in Dublin (and references analogous areas in the other cities and major towns) and states that 'In such areas, it would be appropriate to support the consideration of building heights of at least 6 storeys at street level as the default objective, subject to keeping open the scope to consider even greater building heights ...'
- 8.2.12. Table 3 (Performance Criteria in Assessing Proposals for Enhanced Height, Density and Scale) of appendix 3 of the DCDP 2022-2028 is used to consider building heights. Section 4.1 states 'All proposals with significant increased height and density over the existing prevailing context must demonstrate full compliance with the performance criteria set out in Table 3'. I do not consider that the proposed six storey development could be considered as having a significantly increased height and density over the existing prevailing context. For example:

- 15 Richmond Avenue, approx. 70-100 metres to the east – In 2022, permission was granted and construction is ongoing for a development including a six storey structure addressing the Avenue.
- 17 and 19 Richmond Avenue, approx. 60-100 metres to the east – In 2024, permission was granted for a development including a six storey structure addressing the Avenue.
- 9 and 9A Richmond Avenue, approx. 60-120 metres to the south east – In 2023, permission was granted and construction is ongoing for a development including a six storey structure addressing the Avenue.
- Richmond Hall apartments on the opposite side of Richmond Rd. are four to six storeys in height.
- In 2023 permission was granted on the adjacent grounds of St. Vincent's Hospital Fairview for a redevelopment of the site including to a height of 11 no. storeys.
- In 2023 permission was granted on part of the Leyden's site, approx. 60-200 metres south west of the site on the opposite side of Richmond Road, for a development of up to eight storeys.

8.2.13. While each of these planning applications were assessed on their own individual merits, and each site has its own unique set of circumstances, it is clear that the subject site is in an urban environment where six storeys is not significantly increased over the existing prevailing context, and indeed would be consistent with the emerging character of the area. Notwithstanding, I note that appendix 2 of the applicant's PR&SC summarises how the proposed development complies with the performance criteria set out in the Plan and this was updated in the grounds of appeal. The appellants grounds of appeal contradict the applicant's position in this regard.

8.2.14. On balance and having regard to the location of the site in an area where general building heights of at least three to four storeys is required, is only slightly outside the city centre/canal ring area where at least six storeys in height is the default objective with scope for higher buildings, and having regard to the existing and permitted building heights in the vicinity, I consider that a proposed building height of six storeys would be acceptable in principle at this location.

8.3. Planning Authority Condition 5

8.3.1. This condition states,

'The development hereby approved shall incorporate the following amendments:

- a) Block B shall have its fourth and fifth floors amended by the omission of all units served by the two most southerly lift/stair cores at fourth floor and by the most southern lift/stair core at fifth floor.*
- b) As a result of the above Units B4.01C, B4.02C, B4.03C, B4.04C, B4.05C, B4.06C and B4.07C are the only units to be provided at fourth floor. This comprises seven units total – 4 no. one beds and 3 no. two beds.*
- c) At fifth floor Units B5.01C, B5.02C, B5.03C and B5.04C only shall be provided. This comprises four units total – 2 no. one bed and 2 no. two bed.*
- d) The roof above the third floor, following omission of those portions of the fourth and fifth floors specified above, shall match the proposed roof above fifth floor.*

Development shall not commence until revised plans, drawings and particulars showing the above amendments have been submitted to, and agreed in writing by the Planning Authority.

Reason: To protect the residential amenities of the two-storey dwellings on the opposite side of Convent Avenue'.

Background to the condition

8.3.2. In the planning authority's Planning Report the height of Block B is addressed in section 13.7. It is stated 'The block is ...vertically over twice the horizontal width of the street which would create a significant presence on the streetscape ... the acceptable building heights which have been evolving along Richmond Road and along Richmond Avenue are not necessarily transferable to this context ... the height of the block would come to dominate Convent Avenue with a strong overbearing impact on the streetscape and on the dwellings immediately opposite. The Development Plan requires that enhanced density and height be accommodated where practical but also that existing amenities are respected and maintained ... it is considered that a predominantly four storey block is more appropriate and would present a more proportional scale to the existing housing ... With the removal of parts of the fourth

and fifth floors the building would now have a stepped profile, rising northwards from two to four to five storeys with setback. This is considered a more nuanced approach to scale on this relatively narrow street and the steady rise in height proceeding northwards on the street serves as a transition from the domestic scale of the avenue to the greater scale of the buildings within the hospital site’.

Applicant’s grounds of appeal and revised proposals to address the planning authority’s concerns

- 8.3.3. While the applicant maintains that the proposed development as originally submitted to DCC remains appropriate at the site location, it ‘acknowledges the concerns of the Planning Authority, which sought to respond to issues raised in the third party observations ... this first party appeal proposes an alternative proposal which could address the concerns in respect to the scale of Block B, whilst providing a more appropriate architectural and urban design solution for Block B than the currently proposed Condition No. 5 ...’ The applicant also states the revised design would help to maintain a viable number of apartments.
- 8.3.4. Appendix 2 of the applicant’s appeal includes floor plans showing the original, condition-compliant, and suggested revised floor plans. A partially set back fourth floor area in the area omitted by condition is proposed with a new communal open space area on the eastern side. The set back area has an indicated separation distance of approx. 26.4 metres from the houses on the opposite side of the street. There is a relatively limited alteration to the fifth floor where five apartments are proposed in lieu of the four apartments conditioned.
- 8.3.5. Drawings are submitted showing the massing of the originally proposed, conditioned, and suggested revised Convent Ave. elevation block. A contiguous elevation drawing along Convent Avenue illustrates the three separate building elevations in the context of the Richmond Hall apartment block, nos. 2, 2A, and 4 Convent Avenue, and the permitted St. Vincent’s Hospital structure in close proximity to the north and these are very useful in understanding the visual impact and massing of the various Block B iterations. Visualisations along Convent Avenue are also provided.
- 8.3.6. The applicant also submitted further possible amendments in order to comply with SPPR 1 of the Apartment Guidelines (2023). This is addressed in paragraphs 8.3.14-8.3.17, below.

- 8.3.7. In all, given the additional detail submitted, I consider that there are adequate floor plan, elevation, section, and contiguous drawings as well as other sketches, CGIs etc. available to understand the differences between the original, conditioned, and suggested revised iterations of Block B.
- 8.3.8. Although DCC submitted a response to the Board it did not engage in or make any response to the revisions proposed by the applicant.

My consideration of the original planning application

- 8.3.9. The development as originally submitted to DCC, taking into consideration issues relating to zoning, density and height, design, impact on neighbouring properties, roads and traffic issues etc., separately addressed in different sections of this Assessment but which should be read in conjunction with each other as they are all interlinked, is, in my opinion, acceptable at this inner suburban location. Notwithstanding, I understand the rationale set out by the planning authority in its Planning Report and the reasoning behind condition 5 of its decision.

My consideration of the amendments proposed in the first party grounds of appeal

- 8.3.10. Notwithstanding my comments under the previous subheading that I consider the proposed development as submitted to DCC to be acceptable, in my opinion the suggested revisions submitted as part of the applicant's grounds of appeal would result in a superior development from a streetscape, urban design, and visual impact perspective, and it would also improve on the original application in a number of ways. The other sections of my Assessment in section 8 of this inspector's report largely references the original development. I assess the suggested revisions under this subheading.

Design

- 8.3.11. Condition 5 removes certain sections of the fourth and fifth floors. The resulting elevation drawings show a relatively abrupt transition from fourth to sixth floors with a blank façade to its southern elevation. As a result the upper floors of the block appear slightly lopsided.
- 8.3.12. The applicant's revised proposal shows a more gradual increase in height from the limited two storey area at the southern end, to the four storey section and then an increase to both fifth and sixth floors. A section of the fourth floor and most of the fifth

floor are set back from the building line which reduces the scale and massing impact to Convent Ave. Drawing no. P-3-003 as submitted with the grounds of appeal shows the contiguous Convent Ave. elevations as existing, as conditioned, and as proposed by the revision. The revised proposal is notably reduced in mass and scale from that originally proposed and the proposed setbacks at fourth and fifth floors adds to the sense of a reduction in mass and scale and of a more balanced design.

8.3.13. I consider that the proposed revised design is acceptable and appropriate at this location.

Unit mix

8.3.14. The unit mixes for the original application and resulting from condition 5 are set out in tables 2 and 3 of this inspector’s report. A consequence of the DCC condition is that the majority of units proposed, even excluding those in refurbished 211 Richmond Rd., are one bedroom units which is contrary to the provisions of SPPR 1 of the Apartment Guidelines (2023).

8.3.15. The proposed revisions suggested by the applicant would provide the following unit mix, as per paragraph 3.10 of the grounds of appeal. The applicant acknowledges that, again, SPPR 1 would not be complied with, though it is pointed out that this also occurs as a result of the DCC condition.

Table 4 – Unit Mix as per Applicant’s Revised Proposal

	Bedroom Number		
Type	1-Bed ⁸	2-Bed	Total
Apartment	52	44	96 (100%)
Total	52 (54.2%)	44 (45.8%)	96 (100%)

8.3.16. To address non-compliance with SPPR 1, should the Board be of the opinion that this is a concern, the applicant has put forward an alternative unit mix on the fourth and fifth floors which would render the development compliant with SPPR1. The alternative mix can be incorporated into the same volume/massing of floorplates at fourth and fifth floor as the revised proposals.

⁸ This includes the four 1-bed apartments in no. 211 Richmond Rd.

Table 5 – Unit Mix as per Applicant’s Alternative Revised Proposal

Type	Bedroom Number			Total
	1-Bed ⁹	2-Bed	3-Bed	
Apartment	47	42	4	93 (100%)
Number	47 (50.5%)	42 (45.2%)	4 (4.3%)	93 (100%)

8.3.17. In my opinion, the alternative revised proposal as per table 5 is the optimum unit mix solution. It would both bring the proposed development in line with SPPR 1 of the Apartment Guidelines (2023) if the refurbishment of 211 Richmond Rd. is discounted, and it would introduce a limited number of three bedroom units giving a broader mix of unit types. I consider this unit mix should be conditioned in any grant of permission that may issue.

Lower density

8.3.18. The development as originally proposed would result in a density of 254dh which is marginally greater than the maximum 250dph set for this location in the Compact Settlement Guidelines (2024). Granting the 93 no. unit development as per table 5 would result in a density of approx. 227dph which would sit comfortably within the identified density range.

Daylight and sunlight

8.3.19. The impact of daylight and sunlight on properties in the vicinity are set out in paragraphs 8.5.13-8.5.22 of this report. There would be a substantial impact to houses on the opposite side of Convent Ave. though I do not consider that it would be so severe as to warrant a refusal of permission for the proposed development. Notwithstanding, the revised proposal submitted as part of the applicant’s grounds of appeal is lower, with less mass, and therefore would be slightly less impactful than the original application in terms of daylight and sunlight impact.

⁹ This includes the four 1-bed apartments in no. 211 Richmond Rd.

Ratio of amenity aspects of the development per occupant

8.3.20. Although I consider that the proposed development submitted to DCC performs adequately in a range of aspects, as set out throughout my Assessment, permitting the revised proposals submitted as part of the grounds of appeal would improve certain aspects of the residential amenity. For example, the car parking ratio would slightly improve from 0.27 spaces per unit (paragraph 8.7.7 of this inspector's report) to 0.30 spaces per unit. Communal open space per person would also increase as a result of the reduced number of apartments together with the additional fourth floor external amenity space.

Miscellaneous

8.3.21. The applicant, in section 1.10 of the grounds of appeal, suggested a revised wording for condition 5. This uses amended wording of the DCC condition. I consider a revised and simplified worded condition could be used should permission be granted.

8.3.22. In my opinion the Board can consider the revised proposals submitted as part of the applicant's grounds of appeal. I do not consider that they would comprise a material change from the application as submitted to DCC or from the condition applied by the planning authority. The third party submitted a response to the applicant's grounds of appeal and an observation from third parties was also received. I do not consider that any interested member of the public would be left at a disadvantage as a result of the revised proposal, which is within the envelope of the structure originally proposed, being considered.

Conclusion

8.3.23. In my view the revised proposals submitted with the applicant's grounds of appeal would result in a more appropriate building design for Block B than that conditioned. I consider that the alternative revision suggested which introduces three-bed units should be applied which, among other issues, would bring the development compliant with SPPR 1 of the Apartment Guidelines (2023) and also improve the mix of units.

8.4. Planning Authority Condition 6

8.4.1. This condition states,

'The development hereby approved contains 90 no. dwelling units consisting of 86 units in Block A and Block B, comprising 45 no. one bedroom apartment units and 41 no. two bedroom apartment units and 4 no. one bedroom units in No. 211 Richmond Road.

Reason: To clarify the scale of the approved development'.

- 8.4.2. Using the DCC conditions it would be necessary to amend the wording of condition 6 because it is directly connected to condition 5. Any alteration to condition 5 would automatically affect condition 6. Condition 6, in itself, is a straightforward condition that does not require any analysis above that carried out for condition 5.

8.5. Impact on the Residential Amenity of Adjoining Properties

- 8.5.1. The third party grounds of appeal cite concerns in relation to overbearing and overlooking impacts, daylight and sunlight, and the impact of construction activity on the structural integrity of properties. I consider the proposed development can be assessed under the following subheadings.

Overbearing impact

- 8.5.2. I consider that the proposed six storey development as originally submitted to the planning authority is acceptable in the context of the planning framework and the receiving environment and the proposed development could not be considered to be overdevelopment of the site. While the change in the outlook of existing houses would be significantly altered from two-storey semi-detached houses to an apartment building I do not consider that, in itself, it would be unduly overbearing in the context of this inner suburban area. Issues of building height guidelines, density, plot ratio and the existing and permitted pattern of development in the vicinity must also be taken into consideration.

Overlooking impact

- 8.5.3. No. 211 Richmond Rd. – This is in use as a residential building. It is proposed to refurbish this structure. As no new window openings are to be provided current overlooking onto Richmond Rd. would continue. There are no side elevation windows. There would be a different outlook to the rear/north from the two kitchen and one

landing windows as a result of the proposed development, primarily overlooking the circulation/lift/stairs core of proposed Block A.

- 8.5.4. Proposed Block A – This is five storeys in height with the fifth storey being set back at the southern end of the building. No undue overlooking would occur to the south as this would overlook both a public open space area and Richmond Rd. There are a number of windows (bedroom, bathroom and store) and balconies on the western elevation within metres of the site boundary. The adjacent building is Brooklawn which does not appear to be currently occupied given its condition. It has a blank façade on its eastern elevation i.e. facing Block A, bar one rooflight. As part of the St. Vincent's Hospital LRD Brooklawn is to be used for hospital administration use. Notwithstanding the proximity of Block A to the side site boundary, given the blank façade to Brooklawn, the proposed use of it as hospital administration, and the open space nature of the area surrounding Brooklawn, I do not consider undue overlooking would result. There is a discrepancy between the fourth floor plan drawing (drawing no. P-1-005) and the proposed north west elevation drawing (drawing no. P-2-001). The floor plan does not show west elevation windows to the bedroom and bathroom, but the elevation drawing does.
- 8.5.5. There are a number of living/kitchen/dining room (LKD) and bedroom windows and balconies facing north. There is a discrepancy between the fourth floor plan drawing (drawing no. P-1-005) and the proposed north east elevation drawing (drawing no. P-2-001). The floor plan does not show north elevation windows to the two LKDs, but the elevation drawing does. Given the minimum approx. 8 metres separation to the site boundary, the overlooking of the proposed communal open space, and the nature of the proposed adjoining land use (car parking) I do not consider undue overlooking would occur to the north.
- 8.5.6. To the east there are balconies, bedroom and LKD windows, and windows serving the lift/stair cores. The bedroom windows are to the northern end of the building and high level horizontal windows remove overlooking potential to the rear of the adjoining property. I consider this to be appropriate. There are also other windows serving each bedroom. However, I consider that there would be undue overlooking potential from the balconies at the northern end and a suitable screen should be provided. I do not consider overlooking to the adjoining property from the lift/stair core i.e. non-habitable

area, would be a concern. LKD windows and balconies on the southern end of the block would overlook the blank side façade of no. 211 Richmond Rd.

- 8.5.7. Subject to a minor alteration to the balconies on the northern end of the eastern elevation I do not consider any undue overlooking would occur from Block A.
- 8.5.8. Proposed Block B – This block is six storeys in height with the sixth storey being set back. There is a very limited two-storey area at the southern end of the block and there are no windows on this elevation at ground or first floor levels. For the second to fourth floors there are two bedroom windows and one circulation window on each level. Page 41 of the applicant’s Architectural Design Statement states these windows would have translucent glass. The bedroom windows are high level horizontal windows, and I am satisfied they would not result in undue overlooking. There are also other windows serving each bedroom. At the fifth floor there is a substantial setback and a maintenance-only green roof as well as a distance of approx. 12 metres to the boundary.
- 8.5.9. The eastern elevation would overlook the communal open space and on-site car parking and there would be a distance of approx. 11 metres to the site boundary from the balconies. Car parking for the hospital is proposed on the opposite side of the boundary wall. There are no windows from ground to fourth floor on the northern elevation. The balconies in the north west corner serving units B1.05C, B2.05C, B3.05C, and B4.05C are to have vertical translucent privacy screens. A fixed bedroom window at fifth floor level is approx. 13 metres from the boundary across a green roof.
- 8.5.10. Overlooking to houses on the opposite side of Convent Ave. is a concern of the third parties. While I acknowledge the concern, nonetheless, the houses are on the opposite side of a public street and there is a separation distance of a minimum 17 metres. The apartments face the front of the houses on the east side of Convent Ave. which are not the main amenity areas and comprise small front gardens and/or parking areas visible to anybody using the avenue. I do not consider that undue overlooking would occur across a public street. The development would not result in any new overlooking of areas to the rear or sides of houses which are not currently visible.
- 8.5.11. The applicant’s revised proposal as submitted with the grounds of appeal includes an external communal amenity space on the eastern side of Block B at fourth floor level. A section drawing illustrating its overlooking potential to the houses on the opposite

side of the street is contained in appendix 2. Given the boundary treatment and green buffer I do not consider any undue overlooking impact would occur. In the interests of the amenity of both existing and future residents restricted accessibility times should be applied to this area.

8.5.12. I do not consider Block B would result in any undue overlooking impact.

Daylight and sunlight

8.5.13. Daylight and sunlight are factors in considering the extent of overbearing impact that would occur to existing properties as a result of a proposed development and it is an issue raised in the third party grounds of appeal. The applicant submitted Daylight & Sunlight Assessments with the application.

8.5.14. In the introduction to appendix 16 (Sunlight and Daylight) of the DCDP 2022-2028 it is stated that 'Proposals will ... be assessed on a case-by-case basis depending on site specific circumstances and location' i.e. it 'does not outline exact, city wide, expected results or a suite of results that are likely to be considered acceptable ...' The Plan states that relevant metrics from BR 209 (2011), BS 8206-2 and BS EN 17037 will be accepted. However, if a revised version of BR 209 is issued it would take precedence. Daylight and sunlight assessments are generally expected to demonstrate both how the proposed development performs and how it impacts levels of daylight and sunlight availability in surrounding existing buildings.

8.5.15. Impact on daylight to adjacent buildings, through the vertical sky component (VSC), is assessed in section 3 of the applicant's Assessment. The applicant compares these results to the results which would have occurred if the previous application on site (2443/09 / PL29N.234609) had been constructed. For all 20 no. windows in Richmond Lodge (the five more northerly terraced houses on Convent Ave.) the proposed development would have a further minor or moderate reduction from that which would have occurred had the previous development been constructed. There is less impact to windows on Merville Villas (the five more southerly terraced houses on Convent Ave.), particularly those closer to the Richmond Rd. junction which would achieve compliance with VSC standards. The results show that 29 no. of 40 no. windows on the terraced houses would not meet the BRE criteria. Of the other windows assessed there would be a major reduction to a 'secondary window to the living space' (page 18) at the north elevation ground floor of no. 4 Convent Ave. However, results show

this would be less than that which would have occurred with the permitted development. Three additional windows (of 17 no.) to the rear of no. 213 Richmond Rd. would fall below the BRE criteria than would have under the permitted development. Eight of the windows would be below the criteria.

8.5.16. The applicant acknowledges that 'the proposed development will have a perceptible level of impact to the daylight of many of the windows in this study ...' However, it is rationalised that it is 'in line with the planning approved scheme ... (with) no substantial change in impact from that of the permitted development' (page 23).

8.5.17. Impact on sunlight to adjacent buildings, through annual probable sunlight hours (APSH), is assessed in section 4 of the applicant's Assessment. As no existing windows face within 90° of due south they would not perceive an impact on their sunlight.

8.5.18. In terms of sunlight to neighbouring gardens and open space, as per section 5 of the applicant's Assessment, front gardens, such as those existing on the opposite side of Convent Ave., need not be assessed. There would be no impact to the gardens of houses to the south on the same side of Convent Ave.

8.5.19. It is clear from the applicant's assessment that there would be a notable adverse impact on the VSC of some residential properties in the area, and in particular the five Richmond Lodge houses and nos. 1-3 Merville Villas. However, it should be borne in mind that the baseline figures from which the VSC criteria are calculated (>27% or if <27% greater than 0.8 times the existing value), are based on a low level site intensity i.e. single storey commercial development, two storey semi-detached houses, and a two-storey detached structure. The replacement of a low intensity use with a significantly higher intensity use, in an inner suburban area, will likely result in significant reductions in daylight to existing properties. Six-storey high development would be acceptable in principle at this location, as set out in section 8.2 of this report, and development at this height would inevitably have an impact on its receiving environment.

8.5.20. The applicant makes a number of references to the previously permitted development on site and appears to use it as a justification for the proposed development in terms of daylight and sunlight. While the comparison information provided is of interest that application was assessed in a different context to that which currently exists.

- 8.5.21. This is a zoned and serviced area and there is an onus on planning authorities to ensure that any development on site is at a sustainable and appropriate scale. Daylight/sunlight is only one factor of a number to be considered in a holistic assessment of the impact of a development along with e.g. density, height, public realm, and streetscape and urban design. Page 7 of the BR209:2022 states 'The advice given here is not mandatory and the guide should not be seen as an instrument of planning policy'. Notwithstanding, the impact on daylight and sunlight access to adjoining properties as a result of the proposed development is an important element in reaching a recommendation.
- 8.5.22. Having regard to the foregoing, taking into consideration the content of other sections of this assessment e.g. section 8.1 (Zoning), section 8.2 (Density and Height), and section 8.3 (Planning Authority Condition 5), and while I accept that there would be an adverse impact on existing properties, the proposed six storey development submitted to DCC is acceptable in terms of its daylight and sunlight impact.

Construction activity

- 8.5.23. Concern is expressed about the impact of the proposed development on the physical integrity of existing houses. The proposed development is a standard construction project and I note no basement area is proposed. The proposed development is on the opposite side of the street to the existing houses and no construction traffic is to use Convent Ave. I do not consider that there is any notable reason why the existing houses would be under any undue threat of impact from, for example, vibration or construction methodologies, and I do not consider this is a particular issue of concern.

8.6. Residential Amenity for Future Occupants

- 8.6.1. The third party grounds of appeal cite concerns in relation to minimum or below minimum standards which would provide substandard homes and a lack of useable open space (this is not particularly expanded upon in the grounds of appeal). This section assesses aspects of the proposed development that would affect the amenity of residents.

Design

- 8.6.2. The refurbishment of no. 211 Richmond Rd. is a positive aspect of the proposed development which would retain an older structure along the road and continue to contribute to the streetscape.
- 8.6.3. Proposed Block A is set back from the roadside boundary due to the presence of Brooklawn adjacent to the west. There is a small public open space area to the roadside of the block. It is a five storey building with a partially set back fourth floor. It is a significant structure along the road, located between Brooklawn and the three storeys over basement no. 211. External finishes comprise light cream, grey, and light brown brick with light grey aluminium panels at the fourth floor set back.
- 8.6.4. Proposed Block B is set back slightly from Convent Ave to accommodate a widening of the street and provision of a footpath. It is a six storey building with a set back fifth floor. There is a limited two storey section adjacent to no. 4 Convent Ave. It would significantly alter the character of the avenue given it would replace two-storey houses and a single storey commercial premises. External finishes are similar to Block A.
- 8.6.5. I consider that the two proposed blocks are visually interesting, would provide reasonably active frontages to both Richmond Rd. and Convent Ave., and would have good passive surveillance to all open space areas. An appropriate urban edge, accommodating a slightly widened road and a new footpath, is provided along Convent Ave. I acknowledge that there would be a substantial change to the receiving environment when a low density, less intensive site area is developed in the manner proposed. However, it is consistent with the emerging pattern of development in the vicinity and with parameters outlined elsewhere in this Assessment. The planning application is accompanied by a number of photomontages, CGIs, drawings etc. that illustrate the proposed development in the context of the surrounding environment. These are beneficial in terms of visualising the proposed development.
- 8.6.6. Notwithstanding the foregoing, while I consider that the original Block B as submitted to DCC is acceptable, as set out in section 8.3 of this report I consider that the revised design in the grounds of appeal would be a more appropriate design and have slightly less of an impact on property in the vicinity.

Compliance with the Sustainable Urban Housing: Design Standards for New Apartments Guidelines (July 2023)

8.6.7. In terms of compliance with the SPPRs of these Guidelines, the development compares as follows:

SPPR 1 – The proposed development as submitted to DCC complies with this SPPR as 48 no. (48%) of the apartments in Blocks A and B were 1-bed units. The applicant considers that the 4 no. 1-bed units in the refurbished no. 211 Richmond Rd. should be excluded from consideration citing section 6.9 of the Guidelines which states, inter alia, ‘Planning authorities are also requested to practically and flexibly apply the general requirements of these guidelines in relation to refurbishment schemes ...’ I consider that this SPPR, and others such as SPPR 3 (minimum floor areas) can be disregarded in this case given the retention and refurbishment of no. 211.

This SPPR is affected by condition 5 of the DCC decision and by the revised proposal put forward by the applicant in the grounds of appeal. I have addressed this in paragraphs 8.3.14-8.3.17 of this inspector’s report.

SPPR 2 – No studio units are proposed in the refurbishment of no. 211 Richmond Rd.

SPPR 3 – This SPPR is complied with because minimum floor areas are achieved in Blocks A and B.

SPPR 4 – The applicant’s Housing Quality Assessment states that 53 no. (53%) of apartments in Blocks A and B are dual aspect and I concur. 33% is required in more central and accessible urban locations and 50% is required in a suburban or intermediate location.

SPPR 5 – Sections are shown on drawing no. P-3-001 which show ground floor floor to ceiling heights in excess of the minimum required 2.7 metres.

SPPR 6 – There are fewer than 12 no. apartments per stairs/lift core.

SPPR 7 – This is not an application for shared accommodation/co-living.

8.6.8. Therefore, the proposed development as submitted to DCC complies with the required SPPRs.

8.6.9. Appendix 1 of the Guidelines relates to floor areas and standards. The applicant’s Housing Quality Assessment indicates that the proposed development equals or

exceeds the requirements for living room widths, aggregate LKD areas, bedroom widths and aggregate floor areas, and storage and private open space areas. One exception to this is the living room width for 1-bed units in four apartments in Block A (units A1.04, A2.04, A3.04, and A4.03) where there are widths of 3.0 metres instead of the required 3.3 metres. However, having measured these myself I am satisfied that they have minimum widths of 3.3 metres and therefore this appears to be a typographic error. I am satisfied the apartments equal or exceed the required standards.

- 8.6.10. An updated Housing Quality Assessment does not appear to have been submitted with the revised proposals at fourth and fifth floors. Notwithstanding, the floor plan drawings submitted indicate compliance with the provisions of appendix 1.

Daylight and sunlight

- 8.6.11. Daylight/sunlight is a factor in considering the residential amenity of future occupants of a proposed development, in terms of both internal daylight to apartments and the amenity of the communal and open space areas. Paragraph 8.5.14 of this report also applies to this subsection.
- 8.6.12. Section 6 of the applicant's Assessment relates to daylight to proposed units. All 252 no. habitable rooms (100 no. LKDs and 152 no. bedrooms) achieve the minimum values set out in BS EN 17037:2018+A1:2021 as recommended in BR209:2022. 89.7% of rooms achieve the target illuminance. Table 19 in section 7 outlines the sunlight hours in the LKDs on March 21st. 34 no. are below the recommended minimum standard of 1.5 hours. The other 66 no. are above it by varying degrees. There is no specific percentage of units that need to achieve the recommendations. Section 8 shows that both public and communal open space areas achieve the recommended two hours of sunlight over 50% of the area of March 21st, the public open space area in particular performing very well.
- 8.6.13. Having regard to the foregoing, and taking into consideration the inner suburban site location and the irregular shape of the site in terms of possible design footprints, I consider that future occupants would have reasonable amenity in terms of daylight within apartments and good sunlight provision to public and communal open space areas.

Public open space

- 8.6.14. Table 15-4 (Public Open Space Requirements for Residential Development) of the DCDP 2022-2028 requires a minimum 10% on Z1 zoned land. Section 15.8.7 (Financial Contributions in Lieu of Open Space) of the Plan states that in some instances it may be more appropriate to seek a financial contribution towards the provision of public open space elsewhere in the vicinity.
- 8.6.15. Page 26 of the applicant's PR&SC states that an area of 192sqm (4.6% of the site area) is provided as open space along Richmond Rd. The applicant is amenable to a financial contribution in lieu of the shortfall. A contribution of €216,000 is calculated. A public artwork is also proposed in this area to contribute towards legibility and a sense of place, and there would be a small plaza area with seating.
- 8.6.16. The planning authority did not express any concern in relation to the public open space. Condition 3 of the decision imposed a development contribution of €450,000 (€5,000 x 90 units) as a contribution in lieu of the public open space requirement. The applicant has not appealed against this condition.
- 8.6.17. The proposed public open space area is limited and given its location between Block A and Richmond Rd., and the availability of communal open space elsewhere on site, I consider that it is not likely to be heavily used. Notwithstanding, it would create a soft buffer area in a streetscape which is dominated by roads, footpaths, and the built environment.
- 8.6.18. I consider that a condition relating to a financial contribution in lieu of open space should be applied in the event of a grant of permission.

Communal open space

- 8.6.19. Communal amenity space standards are set out in appendix 1 of the Apartment Guidelines (2023). Based on the submission to DCC communal space of 622sqm is required (52 no. 1-bed x 5sqm, 2 no. 2-bed/3-person x 6sqm, and 50 no. 2-bed/4-person x 7sqm).
- 8.6.20. Page 17 of the applicant's PR&SC states that 634sqm of communal open space is provided, including 120sqm for a children's play area.
- 8.6.21. The planning authority considered that the communal open space provision is satisfactory. Section 13.4.3 of its report notes the third party comments which basically

relates to swapping the communal open space and Block B footprints. The report states 'Such an approach would be contrary to best practice for urban streets and the forming of suitable enclosures to such streets. It is considered that the separation distance on street is reasonable and that there is a transition space designed in between the building edge and site edge'. The report also notes the communal space would become much less private and would not receive afternoon/evening sunlight. I agree with the Planning Report in relation to this issue.

- 8.6.22. I consider that the communal open space area is adequate in terms of area. It is well orientated and would receive adequate daylight and sunlight. Excellent passive surveillance would be provided from both blocks A and B.
- 8.6.23. On foot of the applicant's proposed revised development, additional communal open space is provided by way of a 130sqm amenity space at fourth floor level. This would provide a further, secondary space which would not create any undue overlooking to existing houses on Convent Ave. In the interests of the amenity of both existing and future residents restricted accessibility times should be applied to this area.
- 8.6.24. Having regard to the foregoing I consider that good quality communal open space would be provided.

8.7. Roads and Traffic

- 8.7.1. A number of issues relating to roads and traffic were raised in the third party grounds of appeal e.g. the narrow width of Convent Ave., inadequate footpath widths, pedestrian and cyclist safety, the proposed vehicular entrance, access for services, car parking, and construction activity. I consider that the issues relating to roads and traffic can be assessed under the following subheadings.

Convent Avenue

- 8.7.2. I acknowledge that Convent Ave. is a relatively narrow street. It provides access from Richmond Rd. to St. Vincent's Hospital as well as serving the residential and commercial properties along it. It is approx. 130 metres long and it has footpaths and double yellow lines along its length.
- 8.7.3. The site boundary includes the Convent Ave. carriageway and a letter of consent from DCC in relation to same was submitted with the application. Drawing no. D113-CSC-

XX-XX-DR-C-0002 (Proposed Road Layout) shows the proposed development alterations to the road including an upgraded uncontrolled pedestrian crossing at the Richmond Rd. junction, a widened carriageway width of 5 metres and a 2.0 metres wide footpath along the length of the site boundary on Convent Ave., two car parking spaces and a loading bay, and the proposed vehicular entrance to the north end of the avenue.

- 8.7.4. Figure 4.55 (Carriageway Widths) of the Design Manual for Urban Roads and Streets (DMURS) cites a 5-5.5 metres width as a standard carriageway width for local streets. While the width is less than this for the approx. 48 metres of the street closest to Richmond Rd., this area is outside the applicant's control. I consider that the improvements to the street that are proposed are a beneficial aspect of the proposed development.
- 8.7.5. The vehicular access to the proposed development on Convent Ave. is located close to the St. Vincent's Hospital access point. I do not foresee any sightline issue given the absence of roadside development, the setback of Block B, and the straight nature of the avenue to the south. In relation to the appellants' concerns regarding this access, I note that the proposed development would replace five domestic access points (with one of these serving two houses) and a car repair garage/forecourt, with a single access point, reducing the number of access points and therefore reducing potential traffic hazard to pedestrians and cyclists. I do not consider that the proposed development would generate significantly more traffic than is currently generated by the houses and car-based commercial property given the relatively low number of car parking spaces proposed.
- 8.7.6. On balance I consider that the street is a typical urban street, albeit relatively narrow. The proposed development would improve the carriageway width over the majority of its length, provide a suitable footpath on the development side, would reduce traffic hazard by significantly reducing the number of access points, and would not have any undue adverse impact on the safety of vulnerable road users. I also note that DCC did not raise any concerns with the impact of the proposed development on Convent Ave. in terms of access and traffic.

Car parking

- 8.7.7. 30 no. on-site and two on-street car parking spaces are proposed. Two of the on-site spaces are to be car sharing spaces and the two on-street spaces are visitor spaces. This results in 28 no. dedicated residential spaces for the future occupants. The site is in the zone 2 area as it relates to car parking provision (DCDP 2022-2028 map J). Table 2 (Maximum Car Parking Standards for Various Land Uses) of appendix 5 of the Plan cites a maximum car parking standard of one space per dwelling. Therefore the proposed provision, at 0.27 spaces per unit, is significantly below the maximum standard¹⁰. The applicant justifies this by reference to proximity to public transport, O'Connell St., and employment areas. The policy framework relating to car parking provision in well-serviced urban areas is to minimise it to encourage the use of public transport. The planning authority's Transportation Planning Division report did not express any concern in relation to car parking.
- 8.7.8. While I acknowledge that the proposed car parking provision is relatively low, I consider it acceptable having regard to the provisions of the DCDP 2022-2028 and the location and context of the site.

Services access

- 8.7.9. Swept path analysis drawings for a refuse truck, fire tender, and panel van were submitted with the planning application. An on-street set down area is provided. I am satisfied that no undue concern would arise in relation to this issue.

Construction phase

- 8.7.10. I note that, in the applicant's response to the third party grounds of appeal, it is stated that construction parking will be provided on site and construction traffic access will be via Richmond Rd. and not Convent Ave. This would significantly reduce the roads and traffic impact on Convent Ave. during the construction phase. I consider that, while construction traffic associated with the proposed development would increase traffic on the road network in the area, it would be temporary and would not have a significant impact.

¹⁰ Based on the original application for 104 no. units. The ratio would increase if fewer apartments were permitted.

8.8. Principle of Demolition

- 8.8.1. The proposed development involves the demolition of the existing car repair businesses/commercial premises and houses. The only structure that it is proposed to retain and refurbish is no. 211 Richmond Rd. The third-party response to the grounds of appeal considers that the Board should not enable the demolition of modern family homes.
- 8.8.2. The site does not contain any protected structure, a structure included in the national inventory of architectural heritage (NIAH), and it is not in an architectural conservation area (ACA). However, the site is immediately adjacent/in close proximity to two protected structures, Brooklawn and Richmond House.
- 8.8.3. The application includes a Demolition Justification Report which provides a rationale for the demolition works. It concludes that the proposed development would offer much better use of space and would better align with the residential zoning and surrounding pattern of development. The density and efficiency of the proposed development would offset the combined embodied carbon of the existing and new structures.
- 8.8.4. The planning authority addressed the issue of demolition in its report and considered it to be acceptable and consistent with relevant planning policy.
- 8.8.5. The floor area to be demolished is 2,024sqm. The car repair areas are single storey in height and commercial in design. The houses are of limited architectural merit, and they have effectively no private open space to the rear. The proposed residential development would make significantly more intensive and sustainable use of a brownfield site within the urban footprint and provide a much higher density of residential development, which would be consistent with the planning framework.
- 8.8.6. I have no objection to the demolition of the existing structures as proposed.

8.9. Architectural Conservation and Archaeology

- 8.9.1. The subject site is immediately adjacent to a protected structure (Brooklawn), is close to another (Richmond House), and is within the notification boundary of a recorded monument. As per the previous section of this inspector's report the site itself does not contain any notable building. Although architectural conservation and archaeology are

not issues brought up by third parties, I consider that they are issues that should be addressed given the proximity of the protected structures and the recorded monument.

Architectural Conservation

- 8.9.2. The applicant submitted a Heritage Impact Assessment with the application. This includes the historical development of the area, references the site in the context of various plans and guidelines, and provides a site description. The area is described as having an informal development pattern with a mixed-use character and it retains structures and land uses of architectural, historical, social, technical, and artistic interest. Works to no. 211 'are considered to be acceptable with impact on the special interest of the building' which would typically be exempt from permission as it is not a protected structure (page 25). Section 7 assesses the heritage impact of the proposed development under several subheadings. The applicant concludes that 'the development will not have a significant negative impact on the special interest of the context of the site and the adjoining historic buildings'.
- 8.9.3. DCC notified the Department of Housing, Local Government and Heritage, The Heritage Council and An Taisce that the planning application had been made but no comments were received in response to same.
- 8.9.4. A report on the proposed development was prepared by the Senior Executive Architectural Conservation Officer. Block A was considered to be visually considerate of the scale, presentation, and setting of both Brooklawn and no. 211. Block B was considered to dramatically change Convent Ave.'s architectural presentation and character. The upgrading of no. 211 was welcomed. The renovation would be best guided by a conservation specialist and the opportunity taken to enhance the external presentation of the building. Conservation was addressed in section 17 of the planning authority's Planning Report by reference to the Architectural Conservation Officer's report. Condition 17 of the DCC grant relates to architectural conservation.
- 8.9.5. I consider that the proposed development would not have any undue visual impact on the protected structures in the vicinity. The existing uses/structures on site i.e. commercial car repairs and housing of no notable architectural merit, currently provides a setting which reflects a historically mixed-use area. An exception to this is Rose Cottage. The Architectural Conservation Officer's report states that the demolition of this structure is regrettable. While I agree it contributes to the streetscape

in a way the other houses to be demolished do not, it is not a protected structure and is not in the NIAH and I do not consider its demolition to be a concern.

- 8.9.6. The applicant is proposing to retain and refurbish no. 211 which, in my view, is a beneficial aspect of the proposed development given its relative prominence along Richmond Rd. and its contribution to the streetscape. I consider that Block A is appropriately scaled and would sit comfortably as a new addition in the streetscape between the two historic structures. Block B would be a much more significant addition on Convent Ave. It is slightly more removed from Brooklawn (approx. 30 metres). Its contextual relationship with Richmond House is likely to change as a result of the permitted LRD development. A car parking area is proposed in the area between Richmond House and proposed Block B. I do not consider Block B would have any undue effect on the setting of Brooklawn or Richmond House.
- 8.9.7. The general area is one in transition and is evolving. I consider that the proposed development would be consistent with the emerging pattern of development in the area and would not have an undue adverse impact on the architectural heritage of the area, specifically Brooklawn and Richmond House and their settings. I consider, given its specificity, that a condition similar to that applied by DCC in relation to the refurbishment of no. 211 Richmond Rd. would be appropriate should permission be granted.

Archaeology

- 8.9.8. The applicant submitted an Archaeological Assessment with the application to ascertain the potential impact of the proposed development on the archaeological and historical resource that may exist. Both a desk survey and a field inspection (two small test pits) were carried out. The zone of notification for the potential site of a castle (DU018-017) extends into the north western area of the site. This was recorded from two early 19th century maps which annotated a 'castle', however no archaeological or documentary evidence of such a structure has been recorded to date and it was not marked on a 1760 map. It is possible that Richmond House was originally named Richmond Castle. After an archaeological assessment it was clear that the site has been subject to a large degree of disturbance. Archaeological testing of the site was recommended, to be carried out after demolition of the existing structures.

- 8.9.9. DCC notified the Department of Housing, Local Government and Heritage and the National Monuments Service that the planning application had been made but no comments were received in response to same.
- 8.9.10. The City Archaeologist agreed with the recommendation in the applicant's Archaeological Assessment and recommended a condition be attached relating to pre-development archaeological testing. Archaeology was addressed in section 16 of the planning authority's Planning Report which references the City Archaeologist's report. Condition 16 of the DCC grant relates to archaeology.
- 8.9.11. Given the location of the subject site within the zone of notification of the recorded monument, and the content of both the applicant's Archaeological Assessment and the planning authority's archaeologist's report, I consider that it is appropriate to include an archaeological condition in the event of a grant of permission.

8.10. Community/Cultural Use and Childcare

- 8.10.1. The issue of the 5% community/cultural use as referenced in the DCDP 2022-2028 and the absence of a childcare facility from the proposed development were cited by third parties.

Community/Cultural Use

- 8.10.2. This issue was raised by a councillor in the submissions received by DCC. Objective CUO25 of the DCDP 2022-2028 states, in part, that 'All ... 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'. However, the overall floor area proposed, including the retained no. 211 Richmond Rd., is 8,848sqm as per Q.10 of the planning application form, and therefore objective CUO25 does not apply to this application.

Childcare

- 8.10.3. Policy QHSN55 (Childcare Facilities) states it is the policy of the Council 'To facilitate the provision of appropriately designed and sized fit-for-purpose affordable childcare facilities as an integral part of proposals for new residential and mixed-use developments, subject to an analysis of demographic and geographic need

undertaken by the applicant in consultation with the Dublin City Council Childcare Committee, in order to ensure that their provision and location is in keeping with areas of population and employment growth'. Section 2.4 of the Childcare Facilities Guidelines for Planning Authorities (2001) states, in part, 'Planning authorities should require the provision of at least one childcare facility for new housing areas unless there are significant reasons to the contrary for example, development consisting of single bed apartments or where there are adequate childcare facilities in adjoining developments. For new housing areas, an average of one childcare facility for each 75 dwellings would be appropriate'. There are 104 no. apartments in the proposed development, but no childcare facility is proposed.

- 8.10.4. Section 5.2.1 of the applicant's Social & Community Infrastructure Audit/Assessment identified 20 no. existing childcare providers within a 1km radius/15 minute walk of the site. It is stated there was a combined available capacity of 14 no. spaces. The applicant noted that childcare facilities formed part of the LRD permissions for the hospital and Leyden's sites. Given that the Guidelines reference a facility of 20 no. spaces per 75 no. units this equates to a requirement for a 28 no. space facility for the proposed development. However, the applicant notes that section 2.4 of the Guidelines implies that single-bed apartments do not generally generate demand for childcare. Omitting the one-bed apartments would reduce the number of units proposed to below 75 no. and therefore no childcare facility would be required. The applicant considers that there are sufficient facilities in the area.
- 8.10.5. The planning authority, in section 13.12 of its Planning Report, accepted 'that the scheme would not generate sufficient demand ...to require a viably sized childcare facility ...'
- 8.10.6. Given the number of one-bed units proposed within the 104 no. unit development, I do not consider that there is any requirement for the applicant to provide a childcare facility.

9.0 **Appropriate Assessment (AA)**

9.1. **Stage 1 – Screening Determination for Appropriate Assessment (AA)**

- 9.1.1. Having carried out AA screening (stage 1) of the project (included in appendix 3 to this report), it has been determined that the project may have likely significant effects on South Dublin Bay and River Tolka Estuary SPA (site code 004024) in view of the site's conservation objectives.
- 9.1.2. AA (stage 2) is therefore required of the implications of the project on the special conservation interests of the SPA in light of their conservation objectives.
- 9.1.3. The possibility of likely significant effects on other European sites has been excluded on the basis of the nature and scale of the project, separation distances, and the weakness of connections between the proposed project/subject site and the European sites South Dublin Bay SAC (site code 000210), North Dublin Bay SAC (site code 000206), North Bull Island SPA (site code 004006) and North West Irish Sea SPA (site code 004236).

9.2. **Stage 2 – Appropriate Assessment (AA)**

- 9.2.1. In carrying out AA (stage 2) of the project, I have assessed the implications of the project on South Dublin Bay and River Tolka Estuary SPA in view of the site's conservation objectives. I have had regard to the AA Screening & NIS and all other relevant documentation on the case file. I consider that the information included in the case file is adequate to allow the carrying out of AA.
- 9.2.2. Following AA (stage 2) it has been concluded that the project, individually or in-combination with other plans or projects, would not adversely affect the integrity of South Dublin Bay and River Tolka SPA (site code 004024) in view of the site's conservation objectives and special conservation interests.
- 9.2.3. This conclusion is based on:
- a full and detailed assessment of all aspects of the proposed project including proposed mitigation measures in relation to the conservation objectives of South Dublin Bay and River Tolka SPA,
 - an assessment of in-combination effects, and,

- no reasonable scientific doubt as to the absence of adverse effects on the integrity of South Dublin Bay and River Tolka SPA.

10.0 Recommendation

10.1. Having regard to the foregoing, I recommend that permission is granted for the Large-Scale Residential Development (LRD) as proposed for the reasons and considerations set out below.

11.0 Reasons and Considerations

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

(a) the nature, scale, and extent of the proposed development and the pattern of existing development in the area,

(b) the provisions of the Project Ireland 2040 National Planning Framework,

(c) the provisions of the Sustainable Residential Development and Compact Settlement Guidelines for Planning Authorities (January 2024),

(d) the provisions of the Urban Development and Building Heights Guidelines for Planning Authorities (December 2018)

(d) the provisions of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (July 2023),

(e) the provisions of the Dublin City Development Plan 2022-2028 including the 'Z1 – Sustainable Residential Neighbourhoods' zoning,

(f) the documentation submitted with the planning application, such as the Appropriate Assessment Screening & Natura Impact Statement and EIA Screening Report (Stage 3), plus the first and third party grounds of appeal and the responses to same,

- (g) the submissions and observations received on file including from the local authority, prescribed bodies, and third parties,
- (h) the likely consequences for the environment and the proper planning and sustainable development of the area in which it is proposed to carry out the proposed development and the likely significant effects on European sites,
- (i) the planning history of the site and the vicinity of the site, and,
- (j) the report of the Planning Inspector.

Appropriate Assessment

The Board agreed with and adopted the screening assessment and conclusion carried out in the Inspector's report that South Dublin Bay and River Tolka Estuary SPA (site code 004024) is the only European site in respect of which the proposed development has the potential to have a significant effect.

The Board considered the Appropriate Assessment Screening & Natura Impact Statement and associated documentation submitted with the planning application and grounds of appeal, the mitigation measures contained therein, the submissions on file, and the Inspector's assessment. The Board completed an appropriate assessment of the implications of the proposed development for the affected European site, namely South Dublin Bay and River Tolka Estuary SPA, in view of the site's conservation objectives. The Board considered that the information before it was adequate to allow the carrying out of an appropriate assessment. In completing the appropriate assessment, the Board considered, in particular, the following:

- i. the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- ii. the mitigation measures which are included as part of the current proposal, and,
- iii. the conservation objectives for the European site.

In completing the appropriate assessment, the Board accepted and adopted the appropriate assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the integrity of the aforementioned European site, having regard to the site's conservation objectives.

In overall conclusion, the Board was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of the European site, in view of the site's conservation objectives.

Environmental Impact Assessment Screening

The Board completed an environmental impact assessment screening of the proposed development and considered that the 'EIA Screening Report (Stage 3)' submitted by the applicant, which contains information set out in Schedule 7A to the Planning & Development Regulations, 2001 (as amended), identifies and describes adequately the effects of the proposed development on the environment. Having regard to:

(a) the nature and scale of the proposed development, which is significantly below the thresholds in respect of Paragraphs 10 (b)(i) and (iv) of Part 2 of Schedule 5 of the Planning & Development Regulations, 2001 (as amended),

(b) the location of the site on land zoned 'Z1 – Sustainable Residential Neighbourhoods' in the Dublin City Development Plan 2022- 2028 and the results of the strategic environmental assessment of this plan undertaken in accordance with the SEA Directive (2001/42/EC),

(c) the existing use of the site and the pattern of existing and permitted development in the vicinity,

(d) the availability of public water and foul services to serve the proposed development,

(e) the criteria set out in Schedule 7 of the Planning & Development Regulations, 2001 (as amended) and the content of the applicant's EIA Screening Report (Stage 3), and,

(f) the measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in documents such as the Construction Environmental Management Plan,

it is considered that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an Environmental Impact Assessment Report would not, therefore, be required.

Proper Planning and Sustainable Development

11.1. The Board considered that, subject to compliance with the conditions set out below, the proposed development would be consistent with the zoning and other provisions of the Dublin City Development Plan 2022-2028, would make efficient use of an appropriately zoned mixed-use brownfield site in an inner suburban location in the city, would positively contribute to an increase in housing stock, would be acceptable in terms of urban design, layout and building height, would be acceptable in terms of pedestrian and traffic safety, and would provide an acceptable form of residential amenity for future occupants. The proposed development would not seriously injure the residential or visual amenities of the area or unduly increase traffic volumes in the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

12.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the Board on 11th June 2024, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development or as otherwise indicated and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. (a) This permission authorises 93 no. apartment units: 47 no. 1-bed units, 42 no. 2-bed units, and 4 no. 3-bed units as per the alternative proposal to comply with specific planning policy requirement (SPPR 1) of the Sustainable Urban Housing: Design Standards for New Apartments (July 2023) received by An Bord Pleanála on 11th June 2024 as part of the first party grounds of appeal.

(b) Full revised plans and particulars reflecting this proposal shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of clarity.

3. Prior to commencement of development the developer shall submit, for the written approval of the planning authority:

(a) Revised floor plan and elevation drawings showing consistency between the fourth floor plan for Unit A4.02 and the north west elevation of Block A in terms of windows.

(b) Revised floor plan and elevation drawings showing consistency between the fourth floor plans for Units A4.02 and A4.03 and the north east elevation of Block A in terms of windows.

(c) Proposals to avoid undue overlooking from the south east elevation balconies to Units A1.04, A2.04, A3.04, and A4.03 to adjoining property.

Reason: In the interest of clarity.

4. The mitigation measures identified and contained within the Construction Environmental Management Plan and other plans and particulars submitted with the application shall be implemented in full, except where otherwise required by conditions attached to this permission.

Reason: In the interests of clarity, and of protecting the environment and public health.

5. Prior to commencement of development the developer shall submit, for the written approval of the planning authority:

(a) full detail of all works to the public road and public realm, which shall be carried out at the developer's expense,

(b) the details of the artwork, and timing of installation, within the public open space.

Response: In the interests of orderly development, visual amenity, and the proper planning and sustainable development of the area.

6. The external communal amenity space on the fourth floor of Block B shall not be used between the hours of 2200 and 0700.

Reason: In the interest of residential amenity.

7. Details of the materials, colours, and textures of all the external finishes to the proposed development shall be as submitted with the application, unless otherwise agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

8. The developer shall comply with the following conservation requirements.
 - (a) The following architectural conservation details/revisions shall be submitted for the written agreement of the planning authority prior to the commencement of development hereby approved:
 - i. A schedule of renovation works to no. 211 Richmond Road including specifications for breathable materials.
 - ii. If damp penetration is to be addressed at no. 211 Richmond Road, proposed measures shall be subject to written agreement by the planning authority. Proposals should preferably be of minimal intervention, retain breathability of the primary fabric and be based on the level of damp/water ingress evidenced in the site. Suitable methods of addressing damp include ensuring that the lower ground floor space is adequately ventilated, the use of sacrificial renders internally such as lime/hemp/clay, and/or the introduction of a calcium silicate board. Interventions such as tanking or dry lining are not supported.

- iii. Detailed drawings of historically accurate timber sash windows and glazing for the façade of no. 211 Richmond Road shall be provided to the planning authority for written agreement.
 - iv. Elevation drawings of the historic stone walls to show mark ups of conservation issues and proposed repairs. The applicant shall provide specification for mortars and pointing/capping finishes for written agreement.
- (b) A conservation expert with proven and appropriate expertise shall be employed to design, manage, monitor and implement the works and to ensure adequate protection of the retained and historic fabric during the works. All works shall be designed to cause minimum interference to the retained fabric and the curtilage of the protected structure.
- (c) The development shall be carried out in accordance with the following:
- i. All works to no. 211 Richmond Road shall be carried out in accordance with best conservation practice and the Architectural Heritage Protection Guidelines for Planning Authorities (2011) and Advice Series issued by the Department of Housing, Local Government and Heritage. Any repair works shall retain the maximum amount of surviving historic fabric in situ. Items to be removed for repair off-site shall be recorded prior to removal, catalogued and numbered to allow for authentic re-instatement.
 - ii. All existing original features in the vicinity of the works shall be protected during the course of the refurbishment works.
 - iii. All repair of original fabric shall be scheduled and carried out by appropriately experienced conservators of historic fabric.
 - iv. The architectural detailing and materials in the new work shall be executed to the highest standards so as to complement the setting of the protected structure and the historic area.

Reason: To protect the amenity, setting and curtilage of the protected structure Brooklawn, Richmond Road and the non-Protected Structure at 211 Richmond Road, and to ensure that the proposed works are carried out in accordance with best conservation practice.

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

(a) Notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,

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

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

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

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

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

Reason: In the interest of urban legibility.

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

Reason: In the interests of visual and residential amenity.

12. (a) The landscaping scheme shown on drg. no. Dr.01-DR-2001 as submitted to the planning authority shall be carried out within the first planting season following substantial completion of external construction works.

(b) All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interests of residential and visual amenity.

13. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any residential unit.

Reason: In the interests of amenity and public safety.

14. The developer shall enter into water and/or waste water connection agreement(s) with Uisce Éireann prior to commencement of development.

Reason: In the interest of public health.

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

Reason: In the interests of public health.

16. (a) The on-site car parking facilities hereby permitted shall be reserved solely to serve the proposed development. All car parking spaces shall be assigned for the residential units and shall be reserved solely for those purposes.

(b) A minimum of 50% of the on-site communal/grouped car parking spaces shall be provided with functioning electric vehicle charging stations or points, and ducting shall be provided for all remaining car parking spaces, facilitating the installation of electric vehicle charging points or stations at a later date. Where proposals relating to the installation of electric vehicle ducting and charging stations or points have not been submitted with the application, in accordance with the above noted requirements, such proposals shall be submitted and agreed in writing with the planning authority prior to the occupation of the development.

(c) Prior to the occupation of the development a Parking Management Plan shall be prepared for the development and submitted to and agreed in writing with the local authority.

(d) Cycle parking and storage shall comply with specific planning policy requirement (SPPR) 4 of the Sustainable Residential Development and Compact Settlement Guidelines for Planning Authorities (2024). All cycle parking details shall be submitted to and agreed in writing with the planning authority and shall be in situ prior to occupation of the development.

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

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

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

18. Prior to commencement of development, a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of

Resource and Waste Management Plans for Construction and Demolition Projects (2021) shall be prepared and submitted to the planning authority for written agreement. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

Reason: In the interest of reducing waste and encouraging recycling.

19. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:

- (a) location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
- (b) location of access points to the site for any construction related activity;
- (c) location of areas for construction site offices and staff facilities;
- (d) details of site security fencing and hoardings;
- (e) details of on-site car parking facilities for site workers during the course of construction;
- (f) details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;
- (g) measures to obviate queuing of construction traffic on the adjoining road network;
- (h) measures to prevent the spillage or deposit of clay, rubble or other debris on the road network;
- (i) alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any road or footpath during the course of site development works;
- (j) details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;

(k) containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;

(l) off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;

(m) means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains;

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

20. Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, 0800 to 1400 on Saturdays, and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the local authority.

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

21. A Construction and Environmental Management Plan (CEMP) shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. The CEMP shall include but not be limited to construction phase controls for dust, noise and vibration, waste management, protection of soils, groundwaters, and surface waters, site housekeeping, emergency response planning, site environmental policy, and project roles and responsibilities.

Reason: In the interests of environmental protection and orderly development.

22. (a) The communal open spaces, including hard and soft landscaping, car parking areas and access ways, communal refuse storage, and all areas not intended to be taken in charge by the local authority, shall be maintained by a legally constituted management company.

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

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

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

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

24. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in connection with the development coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion of the development.

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

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

26. The developer shall pay to the planning authority a financial contribution in lieu of the public open space shortfall in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

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

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

Anthony Kelly

Planning Inspector

30th August 2024

Appendix 1

EIA Preliminary Screening – ABP-319873-24

An Bord Pleanála Case Reference	ABP-319873-24		
Proposed Development Summary	104 no. apartments		
Development Address	Richmond Road and Convent Avenue, Fairview, Dublin 3		
1. Does the proposed development come within the definition of a ‘project’ for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	✓
		No	
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, of the Planning and Development Regulations 2001 (as amended), and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes			
No	✓	The proposed development relates to class 10(b)(i) and class 10(b)(iv) but it does not equal or exceed any relevant quantity, area, or limit where specified for that class	Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
	Threshold	Comment (if relevant)	Conclusion
No			
Yes	✓	Class 10(b)(i) and/or Class 10(b)(iv) Fewer than 500 no. dwelling units and on an area less than 10 hectares as per paragraph 10(b) of Part 2 of Schedule 5 of the Regulations (as amended).	Proceed to Q.4
4. Has Schedule 7A information been submitted?			
No		Preliminary Examination required	
Yes	✓	Screening Determination required	

Inspector: _____

Date: 30th August 2024

Appendix 2

EIA Screening Determination – ABP-319873-24

A. Case Details		
Development Summary	104 no. apartments	
	Yes / No / N/A	Comment (if any)
Was a Screening Determination carried out by the PA?	Yes	Concluded that EIA was not required
Has Schedule 7A information been submitted?	Yes	
Has an AA screening report or NIS been submitted?	Yes	AA Screening & NIS
Is an IED/IPC or Waste Licence (or review of licence) required from the EPA? If YES has the EPA commented on the need for an EIAR?	No	
Have any other relevant assessments of the effects on the environment which have a significant bearing on the project been carried out pursuant to other relevant Directives – for example SEA?	Yes	AA Screening & NIS Development Plan subject to SEA

B. Examination	Where relevant, briefly describe the characteristics of impacts i.e. the nature and extent, and any mitigation measures proposed to avoid or prevent a significant effect (having regard to the probability, magnitude (including population size affected), complexity, duration, frequency, intensity, and reversibility of impact)	Is this likely to result in significant effects on the environment? Yes / No / Uncertain
1. Characteristics of proposed development (including demolition, construction, operation, or decommissioning)		
1.1 Is the project significantly different in character or scale to	This is a mixed-use area with development including housing. On-site housing is to be	No

the existing surrounding environment?	demolished to accommodate the proposed development. Development of a similar height, and higher, is existing or has been permitted in the near vicinity. It is not significantly different in character or scale to the existing surrounding environment.	
1.2 Will construction, operation, decommissioning, or demolition works cause physical changes to the locality (topography, land use, waterbodies)?	There would be no topographic changes. Demolition works would not result in physical changes to the locality, other than the removal of existing commercial units and housing. Land use would change from commercial and residential to fully residential. No waterbodies would be affected.	No
1.3 Will construction or operation of the project use natural resources such as land, soil, water, materials/minerals, or energy, especially resources which are non-renewable or in short supply?	Standard construction methods and materials would be used. No significant use of natural resources during the operational phase.	No
1.4 Will the project involve the use, storage, transport, handling, or production of substances which would be harmful to human health or the environment?	Construction activities would require use of potentially harmful materials e.g. hydrocarbons, however these are typical of construction sites. A CEMP is submitted with the application.	No
1.5 Will the project produce solid waste, release pollutants or any hazardous / toxic / noxious substances?	This is a standard apartment development. Typical construction phase activities would be carried out. These would be temporary and localised. Both a CEMP and C&D Waste Management Plan are submitted with the application. During the operational phase foul effluent would be discharged to the public system.	No
1.6 Will the project lead to risks of contamination of land or water from releases of pollutants onto the ground or into surface waters,	No significant risk is identified. SuDS is proposed on-site and there are public surface water and foul water systems. A CEMP has been submitted.	No

groundwater, coastal waters, or the sea?		
1.7 Will the project cause noise and vibration or release of light, heat, energy, or electromagnetic radiation?	The development is a standard residential development. Noise would be generated during the construction phase and mitigation measures are contained in the CEMP.	No
1.8 Will there be any risks to human health, for example due to water contamination or air pollution?	Normal construction phase impacts would be mitigated as per the CEMP. No operational phase impacts are anticipated.	No
1.9 Will there be any risk of major accidents that could affect human health or the environment?	No particular risk having regard to the nature and scale of development	No
1.10 Will the project affect the social environment (population, employment)	The proposed development would result in a partial change of use of the site from commercial and residential to fully residential. There would be an increase in the local population, though this is supported by the planning framework as it located on brownfield land. There would be an increase in employment during the construction phase.	No
1.11 Is the project part of a wider large scale change that could result in cumulative effects on the environment?	The proposed development is one of a number of projects in the vicinity that would contribute to a cumulative effect. However, it is consistent with the applicable planning framework in terms of zoning, density, height etc. and it is not a significant development in the context of e.g. the adjoining hospital LRD.	No
2. Location of Proposed Development		
2.1 Is the proposed development located on, in, adjoining or have the potential to impact on any of the following: a) European site (SAC/ SPA/ pSAC/ pSPA) b) NHA/ pNHA	The site is located in mixed-use inner suburban area of very low ecological value given the extent of built surfaces. The nearest designated area of natural heritage is Royal Canal pNHA approx. 650 metres to the south of the site. The nearest European site is	No

<p>c) Designated Nature Reserve d) Designated refuge for flora or fauna 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.</p>	<p>South Dublin Bay and River Tolka Estuary SPA approx. 1.2km to the south east.</p> <p>Likely significant effects on European sites are screened out in section 9 of this inspector's report.</p>	
<p>2.2 Could any protected, important, or sensitive species of flora or fauna which use areas on or around the site, for example: for breeding, nesting, foraging, resting, over-wintering, or migration, be significantly affected by the project?</p>	<p>The site is located in mixed-use inner suburban area of very low ecological value given the extent of built surfaces. There would be no such impact as a result of the proposed development. The proposed development would significantly increase soft landscaping on site.</p>	<p>No</p>
<p>2.3 Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?</p>	<p>A Heritage Impact Assessment has been submitted with the application given the proximity of Brooklawn, and to a lesser extent Richmond House, two protected structures to the west. An Archaeological Assessment has also been submitted because part of the site is within the zone of notification for a recorded monument (possible castle). These issues are addressed in section 8.9 of this inspector's report.</p>	<p>No</p>
<p>2.4 Are there any areas on/around the location which contain important, high quality or scarce resources which could be affected by the project, for example: forestry, agriculture, water/coastal, fisheries, minerals?</p>	<p>No such features arise in this zoned location</p>	<p>No</p>

<p>2.5 Are there any water resources including surface waters e.g. rivers, lakes / ponds, coastal or groundwater which could be affected by the project, particularly in terms of their volume and flood risk?</p>	<p>There are no watercourses on site. SuDS is proposed on site prior to discharge of surface water to the River Tolka.</p> <p>Flooding was raised as a concern in the third party grounds of appeal. A FRA has been submitted. The site is not located within a flood zone as per DCDP 2022-2028 maps.</p>	<p>No</p>
<p>2.6 Is the location susceptible to subsidence, landslides, or erosion?</p>	<p>The site is a flat site and there is no evidence of these risks</p>	<p>No</p>
<p>2.7 Are there any key transport routes e.g. national primary roads, on or around the location which are susceptible to congestion or which cause environmental problems, which could be affected by the project?</p>	<p>There are no transport routes that would be particularly affected. Construction phase traffic would not be significant in the context of an inner suburban city area. For the operational phase only 32 no car parking spaces are provided. The proposed development would replace two commercial car repair garages and a number of houses so any increase in traffic above the current baseline would be limited. A slight road widening is proposed as part of the development on Convent Ave. which is a benefit to the local area.</p>	<p>No</p>
<p>2.8 Are there existing sensitive land uses or community facilities (such as hospitals, schools etc.) which could be significantly affected by the project?</p>	<p>There is residential development adjacent to the east and south of the site. Impact on these houses has been considered throughout my assessment in section 8 of this inspector's report. There would be normal construction phase nuisance. A CEMP has been submitted and a CMP can be conditioned, as standard.</p> <p>St. Vincent's Hospital Fairview is immediately adjacent to the north and west. Permission has recently been granted on that site for a substantially more significant LRD and general site development than that subject of this planning application.</p>	<p>No</p>
<p>3. Any other factors that should be considered which could lead to environmental impacts</p>		

<p>3.1 Cumulative Effects: Could this project together with existing and/or approved development result in cumulative effects during the construction / operation phase?</p>	<p>Cumulative effects are considered in the applicant's EIA Screening Report. Relevant projects and plans are identified. Good construction management practices as per the CEMP would minimise the risk of pollution from construction activity. It is not expected that cumulative impacts are likely to result in significant adverse effects on the environment. The EIA Screening Report also references the TTA, NIS, EclA, Engineering Services Report, and LVIA in this regard.</p> <p>The planning authority Planning Report states 'the Planning Authority agrees with the finding that ...an Environmental Impact Assessment Report is not required'.</p> <p>I agree with the planning authority that the location, scale, and nature of the proposed development would not act cumulatively with other plans or projects such that it would require an EIAR.</p>	<p>No</p>
<p>3.2 Transboundary Effects: Is the project likely to lead to transboundary effects?</p>	<p>No</p>	<p>No</p>
<p>3.3 Are there any other relevant considerations?</p>	<p>No</p>	<p>No</p>

<p style="text-align: center;">C. Conclusion</p>		
<p>No real likelihood of significant effects on the environment</p>	<p style="text-align: center;">X</p>	<p>EIAR not required</p>
<p>Real likelihood of significant effects on the environment</p>		<p>EIAR required</p>

<p style="text-align: center;">D. Main Reasons and Considerations</p>
<p>Having regard to:</p>

(a) the nature and scale of the proposed development, which is significantly below the thresholds in respect of Paragraphs 10 (b) (i) and (iv) of Part 2 of Schedule 5 of the Planning & Development Regulations, 2001 (as amended),

(b) the location of the site on land zoned 'Z1 – Sustainable Residential Neighbourhoods' in the Dublin City Development Plan 2022-2028 and the results of the strategic environmental assessment of this plan undertaken in accordance with the SEA Directive (2001/42/EC),

(c) the existing use of the site and the pattern of existing and permitted development in the vicinity,

(d) the availability of public water and foul services to serve the proposed development,

(e) the criteria set out in Schedule 7 of the Planning & Development Regulations, 2001 (as amended) and the content of the applicant's EIA Screening Report (Stage 3), and,

(f) the measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in documents such as the CEMP,

it is considered that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an Environmental Impact Assessment Report would not therefore be required.

Anthony Kelly, Planning Inspector

Assistant Director of Planning

Appendix 3

Appropriate Assessment Stage 1 and Stage 2

Appropriate Assessment

Stage 1 - Screening Determination

Description of the project

I have considered the proposed residential development in light of the requirements of section 177U of the Planning & Development Act, 2000 (as amended).

Subject site

The subject site is located in a mixed-use inner suburban area which is currently occupied by two commercial car repair businesses and a number of houses. The River Tolka is approx. 60 metres south of the site.

Proposed development

It is proposed to demolish the existing car repair garages, associated outbuildings, and seven houses/office buildings, construct two apartment blocks containing 100 no. apartments (Block A is four and five storeys containing 18 no. apartments and Block B is two to six storeys containing 82 no. apartments), and refurbish an existing three storey over basement house containing 4 no. apartments; 104 no. apartments in all. Ancillary works such as widening Convent Ave., landscaping, communal amenity space, car parking, services connection etc. is also proposed. Wastewater discharge is to the public system. After sustainable urban drainage systems (SuDS) treatment on-site, surface water from the site would discharge to the Tolka and from there outfall to Dublin Bay.

Submissions and observations

AA-related issues were not referenced in any submissions from third parties or prescribed bodies. The Dept. of Housing, Local Government and Heritage and the Dept. of Environment, Climate and Communications were among the prescribed bodies notified by DCC that an application had been made. Uisce Éireann has no objection to the proposed development.

The local authority Planning Report concludes, in relation to AA, that the project either alone or in combination with other plans or projects, will not adversely affect the integrity of European sites.

Potential impact mechanisms from the project

Site surveys

The site is not under any wildlife or conservation designation. Greater than 95% of the site consists of built land. No flora of conservation importance or invasive species were noted. No bat use, rare or protected habitats, terrestrial mammals of conservation importance, water features, or rare birds or birds of conservation value were noted on site.

European sites

Table 2 of the applicant's AA Screening & NIS identifies five European sites in the zone of influence (Zol) of the project. These are: South Dublin Bay SAC (site code 000210), North Dublin Bay SAC (site code 000206), South Dublin Bay and River Tolka Estuary SPA (site code 004024), North Bull Island SPA (site code 004006) and North West Irish Sea SPA (site code 004236). These all have an indirect hydrological link to the subject site via the surface water network, the River Tolka, and the marine environment.

The AA Screening section of the AA Screening & NIS concludes, in part, that 'Acting on a strictly precautionary basis, an NIS is required in respect of the effects of the project on the South Dublin Bay SAC, North Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA, North Bull Island SPA and North West Irish Sea SPA because it cannot be excluded on the basis of best objective scientific information following screening, in the absence of control or mitigation measures that the plan or project, individually and/or in combination with other plans or projects, will have a significant effect on the named European Site/s'.

Notwithstanding, I do not consider that four of these five European sites should be brought forward to stage 2 AA for the following reasons:

South Dublin Bay SAC – approx. 3.8km to the south east as the crow flies. Page 20 of the AA Screening & NIS considers that 'In the absence of mitigation, there is the potential for dust and surface water runoff to enter the River Tolka with the potential for downstream impacts on the qualifying interests of this SAC'. Contamination of surface water runoff is the concern and the site was included within the Zol having regard to the precautionary principle.

The proposed development is relatively limited in terms of its nature and scale and any polluting incident that could reasonably occur during the construction and/or operational phases would be naturally limited in terms of its range. This comment applies to all five European sites screened in by the applicant. The actual hydrological distance between the site boundary and the SAC boundary is approx. 8.4km across a river and tidal sea waters, taking into consideration the Poolbeg Lighthouse sea wall, and I consider that any polluting material that could arise would be well dispersed and/or diluted by the time it reached the SAC boundary.

The SAC is designated for four COs. However, only one of these, 'mudflats and sandflats not covered by seawater at low tide' [1140] is contained in the 'Conservation Objectives Series South Dublin Bay SAC 000210' document published by the National Parks & Wildlife Service (NPWS). Water quality is not specifically cited in the attributes, measures, or targets for this habitat type.

The other three COs are 'annual vegetation of drift lines' [1210], 'salicornia and other annuals colonising mud and sand' [1310], and 'embryonic shifting dunes' [2110]. 1210 and 2110 are largely terrestrial habitats which would not be affected by any water quality issue. 1310 is also a CO of North Dublin Bay SAC. In the Conservation Objectives Series document for that SAC water quality is not specifically cited in its attributes, measures, or targets. In the absence of site specific detail for South

Dublin Bay SAC I consider the provisions of the North Dublin Bay SAC document can be considered to be applicable given its proximity.

While I acknowledge that the applicant used a strict application of the precautionary principle to screen in the site, having regard to the content of the three foregoing paragraphs I do not consider that it is likely that the proposed development would have any significant effect on South Dublin Bay SAC, either by itself or in combination with other plans or projects, and it is my opinion that South Dublin Bay SAC can be screened out from further assessment.

North Dublin Bay SAC – approx. 4.2km to the east as the crow flies. Page 21 of the AA Screening & NIS replicates the same concern as set out earlier from page 20.

The proposed development is relatively limited in terms of its nature and scale. The actual hydrological distance between the site boundary and the SAC boundary is approx. 5.1km across a river and tidal sea waters and I consider that any polluting material that could arise would be well dispersed and/or diluted by the time it reached the SAC boundary.

North Dublin Bay SAC is designated for 10 no. COs, not four as cited in the AA Screening & NIS. All have attributes, measures, and targets set out in the 'Conservation Objectives Series North Dublin Bay SAC 000206' NPWS document. The COs include a number of terrestrial habitats. I note that water quality is not specifically cited in the attributes, measures, or targets for any of these 10 no. COs.

While I acknowledge that the applicant used a strict application of the precautionary principle to screen in the site, having regard to the content of the two foregoing paragraphs I do not consider that it is likely that the proposed development would have any significant effect on North Dublin Bay SAC, either by itself or in combination with other plans or projects, and it is my opinion that North Dublin Bay SAC can be screened out from further assessment.

North Bull Island SPA – approx. 4.2km to the east. The concern is, again, contamination of surface water.

The SPA is designated for 18 no. COs and attributes, measures, and targets are set for all of them. Although water quality is not specifically cited in any of the attributes, measures, or targets, I consider that a reduction in water quality entering the marine environment could indirectly affect issues such as prey biomass.

As I have noted previously, the proposed development is relatively limited in terms of its nature and scale and the actual hydrological distance between the site boundary and the SPA boundary is approx. 5.1km via a surface water pipe system, the River Tolka, and tidal sea waters. I consider that any polluting material that could arise would be well dispersed and/or diluted by the time it reached the SPA boundary.

While I acknowledge that the applicant used a strict application of the precautionary principle to screen in the site, having regard to the content of the two foregoing paragraphs I do not consider that it is likely that the proposed development would have any significant effect on North Bull Island SPA,

either by itself or in combination with other plans or projects, and it is my opinion that North Bull Island SPA can be screened out from further assessment.

North West Irish Sea SPA – approx. 6.7km to the east. The potential impact again relates to contamination of surface water and the indirect hydrological link.

The SPA is designated for 21 no. COs and detailed attributes, measures, and targets are set for all of them. Although water quality is not specifically cited in any of the attributes, measures, or targets, I consider that a reduction in water quality entering the marine environment could indirectly affect forage biomass which is a measure and target for each CO.

However, as noted previously, the proposed development is relatively limited in terms of its nature and scale and the actual hydrological distance between the site boundary and the SPA boundary is approx. 7.2km via a surface water pipe system, the River Tolka, and tidal sea waters. I consider that any polluting material that could arise would be well dispersed and/or diluted by the time it reached the SPA boundary.

While I acknowledge that the applicant used a strict application of the precautionary principle to screen in the site, having regard to the content of the two foregoing paragraphs I do not consider that it is likely that the proposed development would have any significant effect on North West Irish Sea SPA, either by itself or in combination with other plans or projects, and it is my opinion that North West Irish Sea SPA can be screened out from further assessment.

Effect mechanisms

Given the nature of the subject site the likelihood of any significant effect of the project on a European site due to loss of habitat and/or disturbance of species can be reasonably excluded. The site is not of any importance as an ex-situ foraging, breeding, roosting area for any bird species. There are no European sites in the Zol with groundwater dependent conservation objectives, notwithstanding the absence of proposals for significant sub-surface works. Wastewater would be discharged to the public system for treatment.

There is an indirect hydrological link between the subject site and South Dublin Bay and River Tolka Estuary SPA. While the proposed development is relatively limited in terms of its nature and scale, the actual hydrological distance between the site boundary and the SPA boundary is only approx. 1.4km via a surface water pipe system and the River Tolka. Although I consider that a significant amount of any polluting material that could arise during the construction phase would be dispersed and/or diluted by the time it reached the SPA boundary I consider that, taking a precautionary approach, there is the possibility that significant effects on the SPA could occur during the construction phase in light of the site's conservation objectives, and I agree with the applicant that South Dublin Bay and River Tolka SPA can be screened in for further assessment.

SuDS would be in place during the operational phase. This is not considered to be mitigation for the purpose of AA as per the judgement in CJEU Case C-721/21. A number of policies of the DCDP

2022-2028 requires SuDS to be utilised for reasons other than AA e.g. policies CA9, CA28, SI21, and SI22.

Having regard to the characteristics of the project in terms of the site's features and location, and the project's scale of works, I consider the following impacts and effect mechanisms require examination for implications for a likely significant effect on European site South Dublin Bay and River Tolka Estuary SPA.

A) Surface water pollution during construction phase.

European Sites at risk

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

Effect mechanism	Impact pathway / Zol	European Site	Qualifying interest features at risk
A) Surface water pollution during construction phase	Indirect impact via a hydrological pathway	South Dublin Bay and River Tolka Estuary SPA	Light-bellied brent goose [A046] Oystercatcher [A130] Ringed plover [A137] Grey plover [A141] Knot [A143] Sanderling [A144] Dunlin [A149] Bar-tailed godwit [A157] Redshank [A162] Black-headed gull [A179] Roseate tern [A192] Common tern [A193] Arctic tern [A194] Wetland and waterbirds [A999]

The South Dublin Bay and River Tolka Estuary SPA comprises a substantial part of Dublin Bay. It includes the intertidal area between the River Liffey and Dun Laoghaire, and the estuary of the River Tolka to the north of the River Liffey, as well as Booterstown Marsh. A portion of the shallow marine waters of the bay is also included.

Likely significant effects on the European site ‘alone’

Table 2: Could the project undermine the conservation objectives ‘alone’

European Site and qualifying features South Dublin Bay and River Tolka Estuary SPA	Conservation objective	Could the conservation objectives be undermined (Y/N)?			
		Effect A	Effect B	Effect C	Effect D
Light-bellied brent goose [A046] Oystercatcher [A130] Ringed plover [A137] Grey plover [A141] Knot [A143] Sanderling [A144] Dunlin [A149] Bar-tailed godwit [A157] Redshank [A162] Black-headed gull [A179] Roseate tern [A192] Common tern [A193] Arctic tern [A194] Wetland and waterbirds [A999]	All special conservation interests have, as their conservation objective, to maintain its favourable conservation condition. The only exception is grey plover which is proposed for removal from the list of Special Conservation Interests for South Dublin Bay and River Tolka Estuary SPA and as a result, a site-specific conservation objective has not been set for this species.	Y			

Effect Mechanism A (surface water pollution during construction phase)

It is possible that construction phase surface water runoff from the site could be contaminated by construction phase activities. A degradation of water quality could affect the quality and/or amount of prey biomass for the QI bird species, even though I note that water quality itself is not specifically cited in the relevant attributes, measures, or targets for the site.

AA Stage 1 Conclusion – Screening Determination

In accordance with section 177U of the Planning & Development Act, 2000 (as amended), and on the basis of objective information, having carried out Appropriate Assessment screening (Stage 1) of the project, it has been determined that the project may have likely significant effects on South Dublin Bay and River Tolka Estuary SPA (site code 004024) in view of the site's conservation objectives and qualifying interests.

An Appropriate Assessment (Stage 2) is therefore required of the implications of the project on the qualifying interests of the SPA in light of its conservation objectives.

The possibility of likely significant effects on other European sites has been excluded on the basis of the nature and scale of the project, separation distances, and the weakness of connections between the subject site/proposed development, and the European sites South Dublin Bay SAC (site code 000210), North Dublin Bay SAC (site code 000206), North Bull Island SPA (site code 004006) and North West Irish Sea SPA (site code 004236)

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

Stage 2 – Appropriate Assessment (AA)

The requirements of article 6(3) as related to AA of a project under Part XAB, section 177V of the Planning & Development Act, 2000 (as amended) are considered fully in this section.

The Natura Impact Statement (NIS)

The NIS part of the AA Screening & NIS document sets out NPWS information relevant to the five sites screened in by the applicant e.g. from the respective site synopses and Conservation Objectives Series documents, analyses the potential impacts of the proposed works on the sites (effects via contaminated surface water runoff), sets out mitigation measures, and reaches a conclusion. As per stage 1 I have only brought one of these five sites (South Dublin Bay and River Tolka SPA) forward to stage 2 AA.

The NIS concludes, 'Following the implementation of the mitigation measures outlined, the construction and operation of the proposed development will not result in direct, indirect or in-combination effects which would have the potential to adversely affect the qualifying interests/special conservation interests of the European sites screened in for NIS with regard to the range, population densities or conservation status of the habitats and species for which these sites are designated (i.e. conservation objectives).

All other European Sites were screened out at AA Screening Stage. The proposed project will not will adversely affect the integrity of European sites’.

Appropriate Assessment of Implications for the Proposed Development

The following is a summary of the objective scientific assessment of the implications of the project on the QI features of the European site using the best scientific knowledge in the field. All aspects of the project which could result in significant effects are assessed and mitigation measures designed to avoid or reduce any adverse effects are considered and assessed.

European Sites

Although the applicant screened in five European sites for stage 2 AA, I consider that only one site, South Dublin Bay and River Tolka Estuary SPA, warrants screening in. The conservation objectives of the SPA are set out in the NPWS ‘Conservation Objectives Series South Dublin Bay and River Tolka Estuary SPA 004024’. The conservation objectives are to maintain the favourable conservation condition of all 13 no. species and habitat for which a conservation objective is set.

Aspects of the Proposed Development that could affect Conservation Objectives

Having regard to the foregoing, I consider that the only issue to be addressed is the potential for polluted waters to discharge to the SPA during the construction phase . There is the potential for downstream effects if significant quantities of pollution or silt were introduced to the surface water network during construction works. A degradation of water quality could affect the quality and/or amount of prey biomass for the QI bird species, even though I note that water quality itself is not specifically cited in the relevant attributes, measures, or targets for the site.

The following table is based on the AA Screening & NIS and NPWS data etc.¹¹ The relevant conservation objectives for the European site have been examined and assessed with regard to the identified potential significant effect and all aspects of the project both alone and in-combination with other plans and projects. Mitigation measures proposed to avoid and reduce impacts to a non-significant level have been assessed and clear, precise, and definitive conclusions reached in terms of adverse effects on the integrity of the European site.

¹¹ NPWS data accessed via the NPWS website on 28th August 2024.

Summary of AA of implications of the proposed development on the integrity of South Dublin Bay and River Tolka Estuary SPA (site code 004024) alone and in-combination with other plans and projects in view of the site's conservation objectives

Summary of key issues that could give rise to adverse effects:

- The potential for polluted waters to discharge to the SPA during the construction phase

Conservation objectives: see https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO004024.pdf

Summary of Appropriate Assessment

Qualifying interest (QI) feature	Conservation objectives	Potential adverse effects	Mitigation measures	In-combination effects	Can adverse effects on integrity be excluded?
Light-bellied brent goose [A046] Oystercatcher [A130] Ringed plover [A137] Grey plover [A141] Knot [A143] Sanderling [A144] Dunlin [A149] Bar-tailed godwit [A157] Redshank [A162]	To maintain the favourable conservation condition of the 13 no. bird species and habitat for which a conservation objective is set i.e. all bar grey plover which is proposed for removal from the list	Adverse effects arising from the construction phase activity and relate to downstream impacts via the surface water network	Mitigation measures can be outlined under subheadings. A brief summary of measures include: <i>Stormwater management</i> <ul style="list-style-type: none"> • Development of a project environmental management plan • Appointment of a project ecologist • Silt traps, dust control, stockpile management, appropriate bunding • Maintenance of drainage structures • Appropriate storage of hazardous materials 	The applicant's AA Screening & NIS considers that in combination effects with other existing and proposed developments in proximity to the site would be unlikely, neutral, not significant, and localised and no significant effects on European sites will be seen as a result.	Yes. The applicant's AA Screening & NIS concludes that 'Following the implementation of the mitigation measures outlined ... The proposed project will not will adversely affect the integrity of European sites'. I agree with the conclusion and consider that adverse effects on

<p>Black-headed gull [A179]</p> <p>Roseate tern [A192]</p> <p>Common tern [A193]</p> <p>Arctic tern [A194]</p> <p>Wetland and waterbirds [A999]</p>			<p><i>Air quality and dust monitoring</i></p> <ul style="list-style-type: none"> • Employment of dust suppression measures as well as monitoring and recording of dust levels <p><i>Migrating dust and dirt pollution</i></p> <ul style="list-style-type: none"> • Clean vehicles and internal road • Wheel wash and road sweeper 	<p>I agree with this consideration of in-combination effects</p>	<p>integrity can be excluded.</p>
<p>Overall Conclusion: Integrity Test</p> <p>I am able to ascertain with confidence that the construction of the proposed development would not adversely affect the integrity of South Dublin Bay and River Tolka Estuary SPA in light of the site's conservation objectives. No reasonable scientific doubt remains as to the absence of such effects.</p>					

Mitigation Measures

Mitigation measures are set out in table 7 (Mitigation Measures) of the AA Screening & NIS. It is based on mitigation measures contained within the CEMP submitted with the application. It includes some measures relating to issues that I do not consider to be relevant to AA in the context of this planning application e.g. noise and vibration, and I have excluded them from the summary of mitigation measures in the preceding table of this report, above. The measures in the above table are brief summations of some of the measures proposed and are not an exhaustive list of the measures cited in table 7 of the AA screening & NIS.

I consider that the proposed mitigation measures are standard, well-proven, good practice measures that would mitigate the potential for polluted waters to discharge to the SPA during the construction phase and they are measures capable of being successfully implemented.

In-Combination Effects

Although the AA Screening & NIS addresses in-combination effects, it is addressed more in the AA Screening section rather than the NIS section of the document. Notwithstanding, in-combination effects are referenced in the NIS conclusion.

Table 3 of the AA Screening & NIS identifies 11 no. other planning applications. These relate to both substantial and minor developments in the vicinity. The applicant has identified most of the relevant developments in my opinion¹². Several of these were under construction at the time of my site visit and are likely to be completed or much more advanced in their construction by the time development commences on the subject site, should permission be granted and acted upon.

Notwithstanding that 3539/23 / ABP-317442-23 has not been included in table 3, I agree with the overall finding that no adverse in-combination impacts are foreseen. As I do not consider the proposed development on its own will have any undue adverse effects on South Dublin Bay and River Tolka Estuary SPA, I do not consider that it would have any in-combination effects.

Appropriate Assessment (AA) Conclusion

The proposed development has been considered in light of the assessment requirements of sections 177U and 177V of the Planning & Development Act, 2000 (as amended).

Having carried out screening for AA of the project, it was concluded that it may have a significant effect on South Dublin Bay and River Tolka Estuary SPA (site code 004024). Consequently, AA was required of the implications of the project on the qualifying features of that site in light of its conservation objectives. The possibility for significant effects was excluded for other European sites.

¹² Planning application 3539/23 / ABP-317442-23 (Pete's Antiques) was not included in the applicant's table 3. This was granted permission on 16th August 2024

Following AA, it has been ascertained that the proposed development, individually or in combination with other plans or projects, would not adversely affect the integrity of South Dublin Bay and River Tolka Estuary SPA, or any other European site, in view of the site's conservation objectives.

This conclusion is based on:

- a full and detailed assessment of all aspects of the proposed project including proposed mitigation measures in relation to the conservation objectives of South Dublin Bay and River Tolka SPA,
- an assessment of in-combination effects, and,
- no reasonable scientific doubt as to the absence of adverse effects on the integrity of South Dublin Bay and River Tolka SPA.

Anthony Kelly, Planning Inspector

Date