



An
Coimisiún
Pleanála

S. 4(1) of Planning and Development (Housing) and Residential Tenancies Act 2016

Inspector's Report ABP-320208-24

Strategic Housing Development (SHD)

Demolition of an existing house, construction of 102 no. Build to Rent (BTR) apartments, and associated site works (www.stmichaelsshd.ie).

Location

Lands at St. Michael's Hospital Car Park, Crofton Road, Dún Laoghaire, Co. Dublin.

Planning Authority

Dun Laoghaire Rathdown County Council (DLRCC)

Applicant

Fitzwilliam DL Limited

Prescribed Bodies

1. Inland Fisheries Ireland
2. Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media
3. An Taisce

4. Transport Infrastructure Ireland (TII)
5. Irish Water

Observers

79 observations received, as listed in Appendix 1

Date of Site Inspection

23rd February 2026

Inspector

Anthony Kelly

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1.0 Introduction

- 1.1. This is an assessment of a proposed strategic housing development (SHD) submitted to An Bord Pleanála under section 4(1) of the Planning and Development (Housing) and Residential Tenancies Act 2016.
- 1.2. On 28th April 2021, the Board granted permission for application reference ABP-309098-21. The decision was subject of judicial review (JR)¹. By order of the High Court (2021 No. 562 JR) the Board's decision was quashed and was remitted back to the Board with a number of directions. The appellants, who had sought a simple quashing as opposed to a remittal, were granted leave to appeal. The Supreme Court ([2024] IESC 12) found that it was lawful for the High Court to remit the decision to the Board but attaching directions was not appropriate in this case.
- 1.3. The file was remitted back to the Board for a fresh determination. The previous file number (ABP-309098-21) has been replaced by a new file number i.e. ABP-320208-24. I am the new Inspector assigned to the case and I am assessing the file de novo.
- 1.4. An Bord Pleanála changed its name to An Coimisiún Pleanála on 18th June 2025. I use both names throughout this report depending on the specific reference and where each name is appropriate.

2.0 Site Location and Description

- 2.1. The site is located on Crofton Road in Dun Laoghaire, approximately 100 metres west of both Dun Laoghaire Dart Station and Dun Laoghaire Rathdown County Council (DLRCC) County Hall. Dun Laoghaire Harbour is to the north of Crofton Road and the Dart line.
- 2.2. The site is rectangular in shape with a north-south orientation and a gentle ground level rise from north to south. It was formerly in operation as a public surface level car park containing approximately 90 car parking spaces². However, on my site inspection this use had ceased and the site was primarily characteristic of the early stages of

¹ Crofton Buildings Management CLG and Stephanie Bourke v An Bord Pleanála and Fitzwilliam DL Limited.

² Subsection 3.1 of the applicant's Engineering Planning Report.

construction activity e.g. fenced off and with construction equipment, materials, and staff welfare facilities. Vehicular access to the adjoining St. Michael's Hospital and its associated car park was maintained through the site from Crofton Road.

2.3. There is a single access/egress point onto Crofton Road along the northern site boundary with a public footpath along the boundary. There is a two-storey structure in the north east corner of the site that it is proposed to demolish³. The eight-storey Harbour View development is located adjacent to the east, set back approximately eight metres from the common boundary, accommodating vehicular access to the basement car park and private circulation space. The rear area of St. Michael's Hospital is to the south of the subject site; the primary hospital entrance being from George's Street Lower. The hospital is generally three-five storeys in height. Surface level car parking, accessed via the Crofton Road site entrance with a barrier system for entry into the hospital grounds, as well as a four/five-storey structure associated with the hospital, forms the immediate southern boundary. Existing housing is adjacent to the west of the site. A row of two-storey mews buildings (Charlemont Terrace Mews), perpendicular to the site, are to the south west. These are associated with Charlemont Terrace, a terrace of six three-storey over basement buildings set back from Crofton Road. The buildings in Charlemont Terrace and houses along Charlemont Avenue, parallel to the site to the west off which access to Charlemont Terrace Mews is obtained, are protected structures.

2.4. The site has an area of 0.42 hectares with a net area of 0.33 hectares⁴.

3.0 Proposed Strategic Housing Development (SHD)

3.1. The proposed SHD comprises:

- demolition of an approximately 78sqm two-storey house,
- construction of 102 Build-to-Rent (BTR) apartments in two buildings as follows:

³ This is referred to as a house in the public notices and as a gatehouse on the Demolition Plan drawing. Items 6 and 18 of the SHD Application Form state that it is disused.

⁴ As per page 3 of the applicant's 'SHD Design Appraisal'. The 0.42 hectares includes an approximately 90 metres stretch of Crofton Road.

- Building 01 – Part-five, part-six, part-eight, and extending to part-thirteen storeys containing 57 apartments, and,
- Building 02 – Nine storeys in height containing 45 apartments,
- Internal resident support facilities and amenities and a publicly accessible 93sqm café,
- approximately 765sqm communal open space and 681sqm public open space (including a pedestrian route to the hospital along the eastern boundary),
- shared right of way along the western boundary providing access to St. Michael's Hospital and three surface level car parking spaces,
- 184 bicycle parking spaces, and,
- ESB substation, bin stores, drainage infrastructure, modifications to the road and footpath, and all ancillary development works.

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

Table 3.1 – Key Figures

Site Area (Gross / Net)	0.42 hectares / 0.33 hectares
Number of Units	102 BTR apartments
Building Heights	Five to thirteen storeys
Net Density / Units per Hectare (uph)	Approximately 313uph (see paragraph 13.23)
Dual Aspect	67/102 (approximately 66%)
Open Space / Amenities	<u>Communal</u> – Co-working/study space, gym, games area, lounge/kitchen, multi-purpose recreation, reception, postal storage, enclosed amenity space at thirteenth floor (77.4sqm), bicycle repair station, storage units. Approximately 765sqm of communal landscaped open space at courtyard level and on roof terraces on the

	fifth, eighth, and twelfth storeys of Building 01 and on the eighth storey of Building 02. <u>Public</u> – 93sqm café and the enclosed amenity space on the thirteenth floor would be publicly accessible ‘on occasion’. Approximately 681sqm landscaped public open space, which includes a pedestrian route.
Part V	10 units (nine 1-bed and one 2-bed located on the first and part-second floors of Building 02)
Pedestrian and Cycle Infrastructure	Pedestrian route along the eastern boundary connecting Crofton Road to St. Michael’s Hospital. There is also a shared vehicular right of way along the western boundary serving both the BTR development and the hospital.
Car and Bicycle Parking	<u>Car</u> – 3 spaces (1 disabled and two car club spaces) <u>Motorcycle</u> – 2 spaces <u>Bicycle</u> – 184 spaces (150 resident spaces internal in Building 02), 26 courtyard visitor spaces, and 8 public/café spaces

Table 3.2 – Unit Breakdown

	Bedroom Number		
Type	1-Bed	2-Bed	Total
Apartments	80	22	102 (100%)
Total	80 (78.4%)	22 (21.6%)	102 (100%)

- 3.3. Part of the site within the red line site boundary is not under the applicant’s control i.e. the Crofton Road area. A letter of consent was submitted with the application from

DLRCC consenting to the inclusion of this area in order to carry out works to the public road and footpath. The anticipated construction period is stated as twenty months⁵.

- 3.4. The proposed development comprises two separate buildings. Building 01 is up to thirteen storeys in height and it would be slightly stepped back from Crofton Road. The area between the road and the building line would be paved and open and would present as a small plaza with planters and seating areas. The footprint of Building 02 would be approximately 16-18 metres to the rear/south of Building 01 with a communal open space courtyard area, including very limited car parking, between both buildings. There are peripheral areas of landscaping along the public pedestrian walkway along the eastern boundary and the 6 metres wide shared vehicular access along the western and southern boundaries which would provide continuing access between Crofton Road and the rear area of St. Michael's Hospital.
- 3.5. There is an existing combined sewer through the site which discharges from the hospital site to a combined sewer on Crofton Road. It is proposed to decommission this and replace it with a slightly realigned combined sewer under the shared vehicular access. The proposed development would have separate foul and surface water drainage networks which would discharge to separate existing combined and surface water sewers on Crofton Road. The public surface water sewer discharges to the Irish Sea at the West Pier. The application states that the design of the surface water drainage network has taken cognisance of the objectives and guidance contained in the Greater Dublin Strategic Drainage Study e.g. on-site underground attenuation and flow control, green roofs, bioretention, filter drains, and permeable paving. The proposed development network would be separate to that of the existing system on site that it is proposed to realign.
- 3.6. 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:
- 'Statement of Response to An Bord Pleanála Opinion' dated January 2021,
 - 'Statement of Consistency' dated January 2021,

⁵ Subsection 4.2 of the applicant's 'Outline Construction Management Plan' dated 6th January 2021 and subsection 3.7 of the AA Screening Report dated December 2020.

- 'Statement of Material Contravention with the Dun Laoghaire Rathdown County Development Plan 2016-2022' dated January 2021,
- 'EIA Screening Report' dated January 2021,
- 'Appropriate Assessment Screening Report' (AA Screening Report) dated December 2020,
- 'SHD Design Appraisal' dated December 2020,
- 'Architectural Heritage Impact Assessment' (AHIA) dated 24th November 2020,
- 'Ecological Statement' dated December 2020,
- 'Design Rationale – Landscape Architecture' dated 27th October 2020,
- 'Construction Environmental Management Plan' (CEMP) dated December 2020,
- 'Engineering Planning Report' dated 10th December 2020,
- 'Daylight and sunlight report' (DSR) dated 10th December 2020,
- 'Internal daylight and sunlight report' (IDSR) dated 11th December 2020, and,
- 'Landscape and Visual Impact Assessment' dated December 2020.

4.0 Planning History

4.1. The relevant planning history of the site and vicinity can be summarised as follows:

On site

4.2. P.A. Reg. Ref. D07A/1067 / ABP Reg. Ref. PL 06D.226077⁶ – In 2008, following a first party appeal of the decision by DLRCC to refuse permission, the Board refused permission for a mixed-use residential/retail building of 6-8 storeys over double basement reducing to five storeys to the south consisting of demolition of an existing dwelling and provision of 80 apartments, two retail units, and 124 car parking spaces etc. The three reasons for refusal can be summarised as (i) the scale, bulk, massing and, in particular, the projecting building line forward of Charlemont Terrace, would

⁶ While I would not normally set out the planning history of a site dating back so far, as this application was referred to in multiple third party submissions I have summarised it here in the interest of completeness.

constitute an overly dominant and oppressive appearance on the streetscape, (ii) the loss of an existing car park would result in an under provision of car parking space in the area, and (iii) the proposed development would result in overlooking and loss of privacy to adjoining properties and would seriously injure the amenities of property in the vicinity.

- 4.3. ABP Reg. Ref. ABP-309098-21 – In 2021 the Board granted permission for an SHD application comprising the construction of 102 BTR apartments on site. This decision was subject of the JR, the subsequent Supreme Court judgement, and the remittal to the Board where it was given this new case reference number i.e. ABP-320208-24, as set out in paragraphs 1.2 and 1.3 of this inspector's report (IR).
- 4.4. P.A. Reg. Ref. D21A/1041 / ABP Reg. Ref. ABP-314309-22 – In 2024, following third party appeals of a decision by DLRCC to grant permission, the Board granted permission for the demolition of an existing dwelling on site and the construction of a mixed-use development of 88 BTR apartments, a commercial unit, and a café in two buildings (Building 01 up to eight storeys in height and Building 02 up to nine storeys), and all associated site works. The DLRCC permission granted 74 apartments overall with Building 02 reduced in height by two floors. This was the development i.e. 74 apartments as opposed to the original 88, that was assessed by the Inspector (as per paragraph 7.1.5 of the IR for ABP-314309-22) and granted by the Board. From my site inspection it appears that development has commenced on site on foot of this permission.

St. Michael's Hospital grounds adjacent to the south

- 4.5. P.A. Reg. Ref. D08A/1077 – In 2009 DLRCC granted permission for the removal of trees on the eastern boundary of the site, levelling, site works, and the construction of a new 37 space car park. Condition 4 required that the car park be removed and the land reinstated on or before 1st January 2014 unless permission for retention was granted. This permission was acted upon.
- 4.6. P.A. Reg. Ref. D15A/1196 – In 2015 DLRCC granted permission for the retention of the 37 space car park and permission to provide an additional 27 spaces. The application cover letter stated, in part, 'the Hospital do not own the lands to the north of the hospital, which currently provide most of their parking'. This permission was acted upon.

5.0 Section 5 Pre Application Consultation

5.1. Pre-Application Consultation (ABP-306688-20)

- 5.1.1. A section 5 pre-application consultation took place on 13th May 2020 in respect of the subject development. Representatives of the prospective applicant, DLRCC, and An Bord Pleanála were in attendance. The main matters discussed at the meeting were conservation impact, proposed building heights, the development strategy for the site, impact on existing and future occupants' residential amenity, traffic and transport, and drainage.
- 5.1.2. In the Notice of Pre-Application Consultation Opinion dated 3rd June 2020, the Board stated that it was of the opinion that the documents submitted required further consideration and amendment to constitute a reasonable basis for an application for SHD with regard to the following issues (which are summarised):
1. The impact on the character and setting of the features of conservation interest in the vicinity, in particular the treatment of Building 01 adjoining the row of protected structures along Charlemont Terrace.
 2. The design and height of Building 01, including justification for a higher building at this location relative to the surrounding area.
- 5.1.3. The Opinion also stated that the following specific information should be submitted with any application (summarised):
1. A Housing Quality Assessment (HQA).
 2. Proposals for the management and operation of the proposed development as a BTR scheme.
 3. Detail of Part V provision.
 4. Daylight and sunlight analysis.
 5. A report that specifically addresses the urban design rationale including the proposed materials and finishes of the frontages along the north of the site.
 6. Details of the proposed surface water management system.
 7. A car parking strategy.

- 5.1.4. The authorities that should be notified in the event of making an application that were advised to the prospective applicant were the Minister for Culture, Heritage and the Gaeltacht (Built Heritage and Nature Conservation), The Heritage Council, An Taisce, An Comhairle Ealaíon, Fáilte Ireland, Irish Water, Dun Laoghaire Rathdown County Childcare Committee, and Transport Infrastructure (TII) .

5.2. Applicant's Response to Pre-Application Consultation Opinion

- 5.2.1. Subsequent to the foregoing, a statement in accordance with article 297(3) of the Planning and Development (Strategic Housing Development) Regulations 2017, was required.
- 5.2.2. The applicant submitted a Statement of Response to An Bord Pleanála Opinion which set out how the applicant has responded to each of the issues raised by the Board, except the surface water issue. It is not clear why reference to this issue was omitted from the Statement of Response document. Notwithstanding, the applicant has submitted both an Engineering Planning Report and a 'Stage 1 Surface Water Audit' dated September 2020.

6.0 Applicant's Statement of Consistency and Material Contravention Statement

- 6.1. I draw the Commission's attention to the fact that the current policy and legislative environment, under which this SHD application must be assessed and decided, differs from that which was in place when the SHD application was originally received by the Board on 7th January 2021. A number of policy documents have changed in the interim, the most notable of which, in the context of the application, are the replacement of the DLRCDP 2016-2022 with the DLRCDP 2022-2028 and the replacement of the Sustainable Residential Development in Urban Areas Guidelines (2009) with the Sustainable Residential Development and Compact Settlements Guidelines (2024).
- 6.2. Notwithstanding the foregoing, it is a requirement under section 8 (1)(a)(iv) of the Planning and Development (Housing) and Residential Tenancies Act (2016) that an application contains a statement setting out how the proposal will be consistent with

the objectives of the relevant development plan or where the proposed development materially contravenes the said plan other than in relation to the zoning of the land, indicating why permission should, nonetheless, be granted, having regard to a consideration specified in section 37(2)(b) of the Planning & Development Act, 2000 (as amended)⁷.

- 6.3. The application was accompanied by both statements, which can briefly be summarised as follows.

Statement of Consistency

- 6.4. The Statement of Consistency states that ‘the proposed development is consistent with the relevant national planning policy, guidelines issued under Section 28 ... and with local planning policy (in particular the Dun Laoghaire Rathdown County Development Plan 2016-2022)’ (paragraph 1.16). Other documents referenced in the Statement include the National Planning Framework (NPF) (which has been updated since the application was made), the Rebuilding Ireland Action Plan (which has been replaced by ‘Delivering Homes, Building Communities (2025)’, and the Sustainable Residential Development Guidelines (2009). Documents referenced which remain applicable include the Building Height Guidelines (2018) and the Flood Risk Management Guidelines (2009).
- 6.5. Therefore, the applicant’s Statement of Consistency is of limited value at this stage but was up to date at the time of the submission of the application.

Material Contravention Statement

- 6.6. The applicant’s Statement of Material Contravention with the Dun Laoghaire Rathdown County Development Plan 2016-2022 is no longer particularly relevant to this application given the Plan has been replaced by the 2022-2028 Plan.
- 6.7. Notwithstanding, in the interest of completeness, the four issues which the proposed development may have been considered to materially contravene the Plan related to: the proposed building heights, the reduced level of car parking provision, the number

⁷ The considerations being (i) the proposed development is of strategic or national importance, (ii) there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned, (iii) permission should be granted having regard to the regional spatial and economic strategy, section 28 guidelines, section 29 policy directives, the statutory obligations of the local authority, and any relevant Ministerial/Government policy, or (iv) permission should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.

of one-bed apartments, and the reduced area / absence of private open space for some apartments. The Statement considered that the proposed development would be justified in the context of sections 37 (2)(b)(i) and (iii) of the Planning & Development Act, 2000 (as amended). I have briefly assessed these four issues in paragraphs 13.10-13.21 of my planning assessment.

7.0 Relevant Planning Policy

7.1. Project Ireland 2040 National Planning Framework First Revision (2025) (NPF)

7.1.1. The NPF is the long-term 20-year strategy for strategic planning and sustainable development of Ireland's urban and rural areas to 2040, with the core objectives of securing balanced regional development and a sustainable 'compact growth' approach to the form and pattern of future development. It is focused on delivering 10 National Strategic Outcomes.

7.1.2. Relevant National Policy Objectives (NPOs) include:

NPO 8 – 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 and ensure compact and sequential patterns of growth.

NPO 20 – In meeting urban development requirements, there will be a presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities, towns and villages, subject to development meeting appropriate planning standards and achieving targeted growth.

NPO 22 – 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.

NPO 45 – 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, increased building height and more compact forms of development.

NPO 90 – Enhance, integrate and protect the special physical, environmental, economic and cultural value of built heritage assets, including streetscapes,

vernacular dwellings and other historic buildings and monuments, through appropriate and sensitive investment and conservation.

7.2. Delivering Homes, Building Communities (2025)

- 7.2.1. This document aims to further accelerate the delivery of new homes, to deliver 300,000 by the end of 2030, which will be achieved through the individual and collective effort of the key delivery partners. Local authorities, together with Approved Housing Bodies, the Land Development Agency, and the construction sector, will be critical to delivering and enabling the delivery of the quantum of homes needed over the lifetime of the plan. This is a wide-ranging strategy, encompassing two pillars: Activating Supply and Supporting People.

7.3. Climate Action Plan (CAP) 2025

- 7.3.1. CAP 2025 is the third statutory annual update to Ireland's Climate Action Plan under the Climate Action and Low Carbon Development (Amendment) Act 2021. It lays out a roadmap of actions which will ultimately lead Ireland to meeting the national climate objective of pursuing and achieving, by no later than the end of the year 2050, the transition to a climate resilient, biodiversity rich, environmentally sustainable and climate neutral economy. It aligns with the legally binding economy-wide carbon budgets and sectoral emissions ceilings that were agreed by Government in July 2022. It should be read in conjunction with CAP 2024.

7.4. Ireland's 4th National Biodiversity Action Plan 2023-2030

- 7.4.1. This aims to deliver the transformative changes required to the ways in which we value and protect nature. It strives for a 'whole of government, whole of society' approach to the governance and conservation of biodiversity. The aim is to ensure that every citizen, community, business, local authority, semi-state and state agency has an awareness of biodiversity and its importance, and of the implications of its loss, while also understanding how they can act to address the biodiversity emergency as part of a renewed national effort to 'act for nature'.

7.5. Architectural Heritage Protection Guidelines for Planning Authorities (2011)

- 7.5.1. These guidelines are a practical guide for planning authorities and for all others who must comply with Part IV of the Planning & Development Act, 2000 (as amended) on the protection of architectural heritage.

7.6. Sustainable Urban Housing: Design Standards for New Apartments Guidelines (2020)

- 7.6.1. As per paragraphs 4.100-4.126 of the applicant's Statement of Consistency, the SHD application was made under the Sustainable Urban Housing: Design Standards for New Apartments Guidelines (2020).
- 7.6.2. Specific planning policy requirement (SPPR) 7 of the 2020 Guidelines outlined what comprises BTR development e.g. described as such in the public notices, submission of a proposed legal agreement, and supporting resident facilities and amenities. I am satisfied that the proposed development complies with the requirements of SPPR 7 and that it qualifies as a BTR development. SPPR 8 contains five subsections ((i) – (v)) which state, in summary, that: (i) no restrictions on dwelling mix and all other requirements of the 2020 Guidelines apply, unless specified, (ii) flexibility shall apply in relation to the provision of a proportion of the storage and private amenity space associated with individual units and in relation to all of the communal amenity space, on the basis of the provision of alternative communal support facilities and amenities within the development, (iii) a default of minimal or significantly reduced car parking provision, (iv) no requirement that the majority of all apartments exceed the minimum floor area standards by a minimum of 10%, and (v) no requirement for a maximum of 12 apartments per floor per core.
- 7.6.3. The 2022 version of the Apartment Guidelines were issued as a technical update in relation to, among other issues, BTR accommodation. The result of this was that BTR was no longer a distinct class of development for planning purposes with no allowable divergence from the minimum standards for apartments generally i.e. apartment developments, irrespective of the intended end user, would be designed to the same minimum standards. Circular letter (CL) NRUP 07/2022 set out the applicable transitional arrangements which stated that all appeals or planning applications, including outstanding SHDs, subject to consideration within the planning system on or

before 21st December 2022, would be considered and decided in accordance with the 2020 version of the Apartment Guidelines. This SHD application was received by the Board on 7th January 2021.

7.6.4. A 2023 version of the Apartment Guidelines was also issued. Paragraph 5.10 reiterated the provisions of CL NRUP 07/2022 i.e. that outstanding SHDs within the system before 21st December 2022 would be considered and decided in accordance with the 2020 Guidelines.

7.6.5. The Apartment Guidelines that are currently in place i.e. the 2025 Guidelines, do not apply to any application in the planning system before 9th July 2025 and are therefore not relevant.

7.6.6. Having regard to the foregoing, notwithstanding that a number of subsequent iterations of the Apartment Guidelines have been introduced, the version of the Guidelines that are applicable to this SHD application and under which the application is assessed, are the 2020 Guidelines.

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

7.7.1. 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. I further address the issue of building height in paragraphs 13.42-13.66.

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

7.8.1. These Guidelines replace the Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities (2009) which were in place at the time the SHD application was received by the Board. I refer to them in this IR as the Compact Settlement Guidelines (2024).

7.8.2. 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 interaction between residential density, housing standards, and quality urban design and placemaking to support sustainable and compact growth.

7.8.3. I consider the site to be in the 'City – Urban Neighbourhoods' category of table 3.1 which 'includes: ... (iii) town centres designated in a statutory development plan, and (iv) lands around existing or planned high-capacity public transport nodes or interchanges (defined in Table 3.8) – all within the city and suburbs area. These are highly accessible urban locations with good access to employment, education and institutional uses and public transport. It is a policy and objective of these Guidelines that residential densities in the range 50 dph to 250 dph (net) shall generally be applied in urban neighbourhoods of Dublin and Cork'.

7.8.4. I further address the issue of density in paragraphs 13.23-13.41.

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

7.9.1. The RSES provides for the development of nine counties / twelve local authority areas, including DL RCC. 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.

7.10. Dun Laoghaire-Rathdown County Development Plan (DLRCDP) 2022-2028

7.10.1. Notwithstanding the submission of the original SHD application under the DLRCDP 2016-2022, a planning application must be assessed under the Plan in place at the time the decision is made. Therefore, the current 2022-2028 Plan is the relevant Plan.

Major Town Centre

7.10.2. The site is in an area zoned 'MTC' (Major Town Centre), with a zoning objective 'To protect, provide for and/or improve major town centre facilities'. The areas to the east and west (Charlemont Terrace) have a similar zoning objective. The area to the south west (Charlemont Terrace Mews and Charlemont Avenue) is zoned 'A', 'To provide residential development and improve residential amenity while protecting the existing residential amenities'. The grounds of St. Michael's Hospital to the south are zoned

‘SNI’ (Sustainable Neighbourhood Infrastructure), with a zoning objective ‘To protect, improve and encourage the provision of sustainable neighbourhood infrastructure’⁸. Buildings on Charlemont Terrace and Charlemont Avenue are designated as protected structures.

7.10.3. Both ‘Residential – Build to Rent’ and ‘Tea Room/Café’ are uses permitted in principle on MTC zoned land as per table 13.1.11 of the Plan.

7.10.4. Dun Laoghaire is referred to in subsection 7.5.2 (Major Town Centres).

BTR Development

7.10.5. ‘Policy Objective PHP28: Build-to-Rent and Shared Accommodation/Co-living Developments – It is a Policy Objective to facilitate the provision of Build-to-Rent in suitable locations across the County and accord with the provisions of ‘Sustainable Urban Housing: Design Standards for New Apartments’, 2020 (and any amendment thereof). Proliferation of Built to rent should be avoided in any one area ...’

7.10.6. BTR development is specifically set out in subsections 4.3.2 (Housing Choice) and 12.3.6 (Build-to-Rent Accommodation).

Density

7.10.7. Residential density is referenced in subsections 4.3.1 (Delivering and Improving Homes) and 12.3.3.2 (Residential Density). I address the proposed density in paragraphs 13.23-13.41 of this IR.

7.10.8. The following chapters and appendices are of interest to the proposed development and are considered, where relevant, elsewhere in this IR:

- Chapter 4 (Neighbourhood – People, Homes and Place)
- Chapter 11 (Heritage and Conservation)
- Chapter 12 (Development Management)
- Appendix 5 (Building Height Strategy)
- Appendix 17 (Interim Dún Laoghaire Urban Framework Plan)

⁸ Specific local objective (SLO) 32 of the Plan applies to the adjacent site; ‘To retain the existing hospital uses at St. Michael’s and to develop and upgrade the Hospital and Boylan Centre sites in accordance with the objectives of the Interim Dún Laoghaire Urban Framework Plan and the forthcoming Dún Laoghaire and Environs Local Area Plan.

7.10.9. I draw the Commission's attention to Proposed Variation No. 1 of the DLRCDP 2022-2028. The proposed variation, among a number of other issues, proposes to remove reference to BTR and to amend the approach to density. The publicly available planning authority website, accessed on 8th June 2026, stated that the elected members agreed to make the proposed variation with material alterations on 21st April 2026. Submissions/observations on the material alterations can be made until June 26th. I draw the Commission's attention to it for information.

7.11. Natural Heritage Designations

7.11.1. The nearest area of natural heritage designation is Dalkey Coastal Zone and Killiney Hill proposed natural heritage area (pNHA) approximately 530 metres to the south east of the site. The closest European site is South Dublin Bay and River Tolka Estuary special protection area (SPA) approximately 600 metres to the north west. The closest special area of conservation (SAC) is South Dublin Bay SAC approximately 1.1km to the west. All distances are in a direct line.

8.0 Third Party Submissions

- 8.1. The Board received 79 submissions, primarily from local residents/property owners, as well as a TD, a councillor, two residents associations, two campaign groups, and the management company of Harbour View. The observers are listed in appendix 1 of this IR in alphabetical order. There is a significant degree of overlap in the main issues raised, which can be collectively summarised under broad headings as follows. These issues are addressed in greater detail within the Planning Assessment (section 13), where required.
- 8.2. It should be borne in mind that references to policies, objectives, subsections etc. of the DLRCDP 2016-2022 are no longer directly applicable to this application.

DLRCDP 2016-2022

- The Plan is contravened in terms of building heights, the number of one-bed units, the provision of only three car parking spaces, and the private open space provision for apartments

- A one/two bed BTR scheme does not meet the zoning objective
- Fails to deliver a development that will contribute to community facilities as envisaged in the Urban Framework Plan (UFP) / the proposed development is not appropriate to context as encouraged in objective 6 of the UFP / the width of the pedestrian link is insufficient to increase pedestrian usage of a planned link between George's Street and the Dart as per the UFP / the site is not identified in the UFP as having potential for a tall building / the proposed development is not consistent with the UFP / the proposed development is not consistent with the UFP in relation to the hospital and Boylan Centre site
- The proposed development contravenes/materially contravenes the Plan on many other grounds such as density, loss of privacy, light, increased noise levels, transitional zoning, policies RES 3 and RES 4, protected structures/conservation, the UFP, adjacent residential zoning objective
- The Plan contains protected views in the area i.e. at Crofton Road and Marine Road
- There is no justification for the material contraventions of the Plan

Impact on existing residential amenity

- Overlooking / invasion of privacy to Harbour View, Charlemont Terrace, Charlemont Terrace Mews, and Crofton Avenue / proximity of the proposed buildings to Harbour View/ separation distances should be greater / proposed window louvres are inadequate/insufficient
- Overlooking of private spaces / loss of amenity
- Serious loss of light to apartments in Harbour View and properties at Charlemont Terrace and Charlemont Terrace Mews including garden areas / some properties are ignored / applicant's daylight/sunlight report appears to contain incorrect data/is fundamentally flawed and does not highlight the real impact on Harbour View / the report has incorrect data with respect to Harbour View apartment numbers/configuration of apartments / lack of clarity and information provided / the daylight and sunlight report uses two fictional developments (mirror image and DLRCC framework massing) but the true effect is what should be considered / why is vertical sky component not analysed / applicant would not be in a position

to build as the adjoining structure would drastically impact on the legal rights to light pertaining to 6 Charlemont Terrace

- One submission⁹ is accompanied by a critique of the applicant's Daylight report
- Noise/disturbance issues to Harbour View and Charlemont Terrace Mews from apartments, balconies and communal spaces and terraces / vague hours of operation of the communal roof terraces / noise from the wind tunnel effect so close to the sea will be unbearable / noise from the refuse area
- Block/removal/obliteration of views from Harbour View
- Concern about the operation of the hiring out of the communal spaces / objection to renting the communal spaces for public use
- Artificial light pollution
- Concern about wind funnelling effect / effect on use of existing balconies / full wind tunnel studies should be carried out
- Pedestrian link along the eastern boundary has the potential for anti-social behaviour / pedestrian link width is inadequate/unwelcoming/dark and narrow / should be widened to accommodate cyclists / the area is prone to anti-social behaviour
- The scale of the proposed development is overbearing and would dwarf the broad mix of neighbouring properties
- Noise disturbance / dirt deposition / impact on air quality during the construction phase
- Adverse impact on residents working from home (light, construction disruption, noise)
- Detrimental mental health impacts from loss of privacy
- Potential for structural damage to existing properties during construction / condition should be attached requiring independent structural surveys of a house in Charlemont Terrace Mews

⁹ Appendix 2 to the Stephanie Bourke submission

- Depreciate the value of adjoining properties
- The proposed development is not equitable in balancing the rights of the developer and the rights of adjoining property owners
- Harbour View residents would have to leave their apartments

Impact on the residential amenity of future occupants

- Future residents would equally be affected by overlooking from Harbour View
- Inadequate ground level communal space has to be compensated for by roof-top gardens / inadequate outdoor spaces for a development of the size proposed
- Unacceptable lack of private open space provision
- Roof terraces will be unusable because of high winds / safety risks
- Poor apartment design and inadequate floor areas and lighting / inclusion of single aspect north facing apartments with no/reduced private open space / inadequate storage
- Overshadowing analysis does not consider the communal courtyard
- No privacy strip for ground floor apartments adjacent to the pedestrian link

Building heights / design

- Building height is excessive and will have a serious negative visual impact on Crofton Road, Charlemont Terrace, Charlemont Terrace Mews, and Crofton Avenue / the thirteen storey tower is actually fourteen storeys because the top floor appears to be two levels
- The development will have serious detrimental impacts even if the number of floors is reduced / excessive number of proposed units / Building 01 should be reduced to five to eight storeys and Building 02 to six storeys
- The proposed development fails to be consistent with the style of surrounding development but risks introducing an overwhelmingly obtrusive element, disrupting the current harmony / out of keeping with the architecture of the area / height, alignment, form, mass and design would be inconsistent with neighbouring existing/emerging built environment / the proposed development would

permanently destroy the existing skyline / would be obtrusive and incongruous / will alter/adversely affect the coastal fringe

- The proposed height would dwarf other buildings, including civic/public buildings / it is an over-scaled addition injurious both in terms of architectural character and civic amenity / excessive visibility of the development / the proposed height is out of proportion with the width of the site / the UFP does not identify any sites for landmark buildings / the town does not require this version of a landmark building
- The proposed heights would affect the ability of future development to the south to achieve harbour views
- The proposed development is non-compliant with the Building Height Guidelines (2018) / material contravention on the basis of these Guidelines is not appropriate
- The proposed development does not enhance the urban landscape / loss of views from the piers and seafront
- Proximity to public transport is used to leverage an excessive upward building height modifier at this coastal fringe location / the Dart station and bus terminus are already identifiable opposite the town hall / upward modifiers cannot justify extreme height increases / too little emphasis placed on downward modifiers
- The Landscape and Visual Impact Assessment (LVIA) does not portray the reality of the appearance of the proposed development / disagree with the LVIA assessments of views / no computer generated image views from Harbour View in the LVIA / additional photomontages should have been produced from the Crofton Road area
- Proposed building lines are grossly out of scale with adjoining properties
- Excessive number of apartment blocks in the area
- Approval of the proposed development would set a new height norm for the area inconsistent with the historically significant church spires
- The site context differs from other tall buildings in Dun Laoghaire such as the open space area beside the Lexicon library
- Concern about the proposed development blocking mobile/broadband/satellite/TV/internet signals

- The proposed development does not create a proper sense of place / inadequate public open spaces/amenities
- Serious overdevelopment of the site
- One observation, from an architect¹⁰, generally supports the principle and layout of the proposed development and considers the relationship to the protected structures to be reasonably sensitive, however considers that the thirteen storey element should be reduced to match the height of the remainder of the block or omitted pending redesign, given the absence of a plan-led justification for a development of this height

Transportation / Traffic / Car parking

- Loss of critical car parking spaces to locals, visitors to the town, and the hospital / lack of available parking spaces as it is / loss of car parking spaces will result in more cars parking haphazardly impacting traffic flow / add to congestion in the immediate area
- Three car parking spaces is completely inadequate / it is not realistic to assume residents will not have cars / discriminatory against disabled/elderly with reduced mobility as this number of spaces effectively puts a quota on the number of these people who can live there / parking permits should not be issued to residents of the proposed development
- Proposed service road access/loading and unloading is not clear / delivery vehicles will park on the access lane to the Harbour View basement car park / potential for parking on double yellow lines causing a safety issue/congestion
- Existing traffic gridlock in Dun Laoghaire and possibly 60% of residents will own cars / road infrastructure is not currently adequate
- Over-reliance on cycling / coastal cycle lines are temporary with no commitment that they would be permanently retained / high number of cyclists would impact motorists
- The cited benefit of car club/sharing is not appropriately evidenced

¹⁰ Fergal McCabe, who references in the observation his position as the leader of the team which drew up the first Residential Density Guidelines in 1999 among other related positions.

- Public transport will not meet all needs
- Concern about construction phase parking and traffic

Infrastructure

- The public drains are already at full capacity / concern about demand on and capacity of existing utilities
- The development will result in discharge of raw sewage at street level / waste regularly overflows/discharges into the sea
- Pollution source given the necessity for the storage of refuse for extended periods
- Negative impact on water pressure

Conservation / Archaeology / Heritage

- Proposed building heights and building line will have a detrimental impact on Charlemont Terrace and Charlemont Avenue protected structures / the proposed development cannot be considered to successfully integrate with the protected structures / the proposed development would overwhelm/dominate/degrade Charlemont Terrace / the stepping of heights is ineffective
- Any development should be sympathetic to Charlemont Terrace / historical interest of 1 Charlemont Avenue may be affected by the proposed development
- Though not protected the Mews houses are effectively within the curtilages of protected structures and are worthy of protection from overbearing development / the proposed development would seriously detract from the character and setting of Charlemont Terrace and Mews
- Some submissions¹¹ are accompanied by a detailed 'Conservation Impact Assessment' of the proposed development on 5 Charlemont Terrace (protected structure) and Charlemont Terrace Mews, and other heritage structures, and includes a critique of the applicant's AHIA and Statement of Material Contravention
- It would not conserve or enhance the character of the Conservation Area/ Dun Laoghaire Harbour candidate Architectural Conservation Area

¹¹ The Hanley Family, Denis Hanley, and Katherine Aylmer submissions.

- No conservation or impact assessment on the harbour or seascape
- The site is within the boundary of a former Magdalene laundry and investigations/archaeological examination should be carried out to ensure the site is not a burial ground / consideration should be given to creating a memorial garden/green space rather than apartments / very limited mention of this issue in the application
- The proposed development would undermine the character and heritage of the harbour and waterfront

Other issues

- A neighbouring co-living SHD is under construction and permission should not be granted for another development so close by which only caters to a limited segment of the population / oversaturation of one-bed units in the development/vicinity / oversaturation of BTR/co-living in the town / not conducive to a neighbourhood feel/permanent community
- The proposed development does not respect the broad socio-economic balance of the locality / Dun Laoghaire needs more family/all-generation apartments/houses and not single unit living with a transient population / occupants will be a transient population undermining the fabric of society
- The proposed development would make a negative contribution to the continuation of the neighbourhood and town as an inclusive and sustainable community
- BTR model does nothing to solve the housing crisis / housing crisis is not a reason to grant inappropriate schemes / BTR/rental accommodation should be closer to the city centre rather than a family-oriented area
- The proposed development should be refused as opposed to granted with conditions and modifications
- Poor value for money for the Part V rental apartments and they are not permanent homes

- Lack of appropriate separation distance between the proposed development and Harbour View poses a threat of fire spread / fire service does not have the fire-fighting/rescue equipment for a thirteen storey building / concerns relating to emergency services vehicular access / ability of fire trucks to access Harbour View / the distance between buildings does not have the required one hour fire compartment / the proposed development does not adhere to or comply with fire safety regulations / insufficient water pressure for fire fighting
- The proposed development would set an extreme precedent for future development / damage the seafront / affect the character of the area / piecemeal development
- Errors in the application e.g. descriptions of heights,
- No consultation with adjoining property owners
- The proposed development contravenes the Apartment Guidelines
- The disruption caused will discourage people from living in town centres
- A previous application of considerably smaller scale was refused by An Bord Pleanála¹²
- The developer has ignored/not addressed the pre-application concerns of DLRCC
- Concern/criticism about the SHD process and by-passing of the local authority / concern about the use of the SHD process for this application / development extended to thirteen storeys to ensure consideration under the SHD process
- The Board should refuse to consider the application/cannot grant permission as the Building Heights Guidelines (2018) are ultra vires
- The proposed development could jeopardise the future viability of the hospital / area should be used as a three-storey health clinic with playgrounds and café/as an education and science centre/as recreational and community space
- Changing the shared right of way from east to west should be investigated

¹² D07A/1067 / PL 06D.226077 as per paragraph 4.2.

- Insufficient detail on the substructures
- The EIA screening report does not include all required information, including no consideration given to the nature/extent/impact of excavation works on human health
- Concern about impact of the proposed development on Dublin Bay SAC and birds of conservation concern / the AA Screening Report contains lacunae and appears to rely on mitigation measures to screen out Stage 2 AA
- Numerous grounds for judicial review

9.0 Planning Authority Submission

9.1. In compliance with section 8(5)(a) of the Planning & Development (Housing) and Residential Tenancies Act, 2016, DLRCC submitted a report of its Chief Executive Officer in relation to the proposal. This was received by the Board on 5th March 2021. I again draw the Commission's attention to the fact that the report was prepared under the now expired and replaced DLRCDP 2016-2022.

9.2. The report includes site and proposed development descriptions, the site zoning ('MTC', as per the current Plan), planning history, a summary of issues raised in submissions, a summary of the views of the relevant elected members, a summary of the policy context, and a planning assessment¹³. The report concludes that a proposal to provide a residential scheme on 'MTC' zoned land, in the vicinity of public transport infrastructure, is generally welcomed and the comprehensive redevelopment of this particular prominent and underutilised site would be welcomed. However, significant concerns are expressed with regard to the development as proposed and DLRCC recommended a refusal of permission for three reasons, as follows.

1. The proposed development, by reason of its overall height, density, scale, and massing, fails to have regard to its surrounding context, would have a detrimental impact on the character of the surrounding area, would seriously injure the visual and residential amenities of properties located within its immediate vicinity by

¹³ I refer to the content of the planning assessment within section 13 of this IR, where relevant.

reasons of overshadowing, overlooking, by being visually overbearing and thereby constitutes overdevelopment of the site. Furthermore, having regard to the window treatments along the side elevation of the proposed Building 01, in particular principally translucent glazing to serve the bedroom in one-bedroom apartments, the proposed development would result in substandard residential accommodation for future occupiers of the proposed development. The proposed development is considered to be contrary to Policy UD1¹⁴, Appendix 9 (Building Height Strategy) and Appendix 12 (Dun Laoghaire Urban Framework Plan) of the Dun Laoghaire Rathdown County Development Plan, 2016-2022 and the Urban Development and Building Heights, Guidelines for Planning Authorities (2018, DoHPLG). The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. Having regard to the zoning objective of the site as 'Major Town Centre' and the location of the site within the Seafront Quarter of Dun Laoghaire, as contained in the Dun Laoghaire Urban Framework Plan, it is considered that the proposed development fails to provide an appropriate mix and balance of uses and activities, given the MTC zoning and fails to provide the mix of uses and activities appropriate to the Seafront Quarter as envisioned in the Dun Laoghaire Urban Framework Plan. The proposed development is considered to be contrary to Policy RET4: Major Town Centres of the Dun Laoghaire Rathdown County Development Plan, 2016-2022, contrary to Appendix 12 (Dun Laoghaire Urban Framework Plan) and contrary to the MTC zoning objective for the area. Therefore, the proposed development is contrary to the proper planning and sustainable development of the area.
3. The application site on Crofton Road occupies a prominent location on the approach to Dun Laoghaire town centre from the west. Protected structures are located to the west and southwest of the application site, at Charlemont Terrace and Charlemont Avenue respectively. The proposed development, by reason of its overall height, scale and massing, would adversely impact on the setting of these protected structures, and would be visually injurious to the amenities of the area. Furthermore, Dun Laoghaire has largely retained a unique hierarchy

¹⁴ Policy UD1 related to urban design principles.

whereby civic buildings and church spires have pre-eminence on the skyline. The Dun Laoghaire Urban Framework Plan, as set out in Appendix 12 of the Dun Laoghaire Rathdown County Development Plan 2016-2022, states that the character of Dun Laoghaire will be protected, that intensification should be promoted generally through compact urban form rather than taller buildings, and also that a key objective is to protect the unique skyline particularly for views from the East and West Piers. The proposed development, which does not comprise a civic or public building, would, by reason of its overall height, detract from the existing urban skyline and would compete with existing landmark structures. The proposed development would thereby be contrary to the provisions of Dun Laoghaire Urban Framework Plan, as set out in Appendix 12 of the Dun Laoghaire Rathdown County Development Plan 2016-2022. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

9.3. Notwithstanding the DLRCC recommendation of refusal, the report, as required, includes recommended conditions (44 no.) should the Commission decide to grant permission. Conditions of note include:

- Condition 2 recommends the omission of five storeys (L07-L11) from Building 01, reducing it to eight storeys in height, the provision of a communal terrace in lieu of two apartments at level L06, and the reduction in width of Level 03 at the western side, as well as, in Building 02, the omission of level 07. This would reduce the number of permitted apartments to 80.
- Conditions 5 and 6 relate specifically to surface water and conditions 7-11 relate specifically to landscaping. Condition 7 (f) requires the payment of €2,000 per apartment in lieu of the provision of public open space. Page 85 of the report notes that specific technical conditions have previously been replaced by the Board with generic conditions, and the Board is requested to tie the condition(s) back to the report of the technical department.
- Condition 20 recommends submission of a written statement relating to public use of the eastern boundary pedestrian walkway.
- Condition 22 recommends a full bat roost survey prior to commencement of development.

- Condition 24 recommends the inclusion of clearly designated set down/pickup and delivery/service bays adjacent to Crofton Road.

9.4. Section 9 of the Chief Executive's Report summarises the views of the relevant elected members of DLRCC as expressed as an area committee meeting on 9th February 2021. These views are largely similar to those expressed in the third party submissions, which have been summarised in section 8 of this IR.

9.5. The Chief Executive's Report is accompanied by Appendix A which contains the internal departmental reports. I summarise these as follows:

Transportation Planning – The proposed development is unacceptable in some transport related aspects such as the absence of set down/pick up and delivery/service areas along Crofton Road, the bin holding area along Crofton Road, and there should be a minimum car parking ratio of 0.5. A refusal is recommended.

Drainage Planning – The application is generally satisfactory subject to conditions.

Parks Department – While the open space design and overall approach is supported there are some concerns relating to the provision of open space, omission of play facilities, absence of sunlight within amenity spaces, and car parking within the courtyard. Conditions are attached.

Architects Department – While the development of the site is positive in terms of adding population into the town close to the Dart station/bus stops there is no particular reason to mark this area with a tower and the UFP does not suggest the site is appropriate for a higher building to act as a 'gateway' or 'bookend' or as a 'landmark' in general. This is not intended in the UFP. A façade similar in form and scale to the seafront terraces is appropriate with a shoulder line relating to both Charlemont Terrace and the Harbour Yard. The proposed tower is awkward with a particularly poor south elevation. It has no civic purpose or meaning that would justify such a significant change to the skyline and it would detract from the character of the area.

Conservation Officer – Comments made. Though the two western blocks of Building 01 are acceptable in their relationship with Charlemont Terrace, the proposed building should be reduced in height to the east.

Environment Section – No concern expressed subject to conditions.

Housing Department – Should permission be granted a Part V condition should be attached.

10.0 Prescribed Bodies

10.1. As per paragraph 5.1.4, the applicant was required to notify the following prior to making the application: Minister for Culture, Heritage and the Gaeltacht, The Heritage Council, An Taisce, An Comhairle Ealaíon, Fáilte Ireland, Irish Water, DLRCCC, and TII. The observations received are summarised as follows:

Inland Fisheries Ireland (IFI)¹⁵

10.2. Commentary is provided. Observations in relation to conditions are set out.

Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media

10.3. The observation is set out under three separate headings as follows.

10.4. Archaeology – Archaeological monitoring of groundworks should be carried out.

10.5. Architectural Heritage – The application raises key concerns regarding the scale of development and impact. The site is within a prominent and sensitive location to the historic harbour. The impact is of concern due to the unprecedented jump in scale, in particular the impact on the Town Hall. It exceeds the scale and girth of the long established residential terraces and more recent residential blocks. The intrusion of the proposed tower is significant and the justification is unsupported. The proposal in this sensitive context is of concern and makes no connection to the scale of the adjoining terrace or the sensitivities of the protected structures. Reconsideration of the design approach is recommended with a reduction in the scale of the tower.

10.6. Nature Conservation – Any permission should be subject to conditions relating to the timing of the removal of trees/shrubs and a bat roost survey of the house to be demolished.

¹⁵ Though not included in the notice issued by the Board, an observation was made by IFI.

An Taisce

- 10.7. The pre-application process for SHD breaches Aarhus principles for the same reason as found in a substitute consent case¹⁶. The thirteen storey height is excessive and overbearing, would have a significant negative impact, would be highly visible from the seafront and inappropriately dominate the view from the piers, and the site has not been identified in the UFP as suitable for a building of this height.

Transport Infrastructure Ireland (TII)

- 10.8. The proposed development shall be undertaken in accordance with the recommendations of the Transport (Traffic Impact) Assessment and any recommendations arising should be conditioned if granted¹⁷.

Irish Water¹⁸

- 10.9. The applicant has been issued a Statement of Design Acceptance. Conditions are requested to be attached should permission be granted.

11.0 Oral Hearing Request

Previous SHD Planning Process (ABP-309098-21)

- 11.1. Five submissions validly sought an oral hearing in relation to the proposed development i.e. paid the required €50.
- 11.2. Section 18 (b) of the Planning & Development (Housing) and Residential Tenancies Act, 2016 (as amended) provides that, before deciding if an oral hearing for an SHD application should be held, the Board:
- shall have regard to the exceptional circumstances requiring the urgent delivery of housing as set out in the Action Plan for Housing and Homelessness, and

¹⁶ The observation refers to [2020] IESC 39.

¹⁷ I am not clear which document is being referred to as no Transport (Traffic Impact) Assessment was submitted to the Board.

¹⁸ Irish Water was subsequently renamed Uisce Éireann on 31st December 2022.

- shall only hold an oral hearing if it decides, having regard to the particular circumstances of the application, that there is a compelling case for such a hearing.

11.3. There was not considered to be a compelling case for the holding of an oral hearing during the original SHD process (ABP-309098-21) and no such hearing was held.

Current SHD Planning Process (ABP-320208-24)

11.4. I agree with the decision of the Board under ABP-309098-21 that there was not a compelling case for the holding of an oral hearing, and in my view that decision remains applicable to this remitted application.

11.5. Notwithstanding, I draw the Commission's attention at this stage to the fact that the SHD application as submitted would not comply with the communal or private open space requirements of the DLRCDP 2022-2028. To grant the application as submitted would be a material contravention of the DLRCDP 2022-2028 in relation to these issues.

11.6. If the Commission is of a mind to grant permission, as it is precluded from seeking further information and recirculating same to relevant parties because it is an SHD application, and as these are new issues which did not arise in the DLRCDP 2016-2022, the Commission may consider addressing them by way of a limited agenda oral hearing. This is a decision for the Commission in line with section 18 of the Planning & Development (Housing) Residential Tenancies Act, 2016 (as amended). Notwithstanding, given the substantive recommended reason for refusal as set out in section 17, which is based on a concern which also arose in the previous DLRCDP 2016-2022, I recommend that permission be refused for the stated reason without a limited agenda oral hearing being held.

12.0 Environmental Impact Assessment (EIA) Screening

12.1. I note the submission of the applicant's EIA Screening Report and have taken the provisions of it into consideration in this section.

12.2. On foot of EIA preliminary screening (see Appendix 2 (Environmental Impact Assessment (EIA) Pre-Screening)), as the proposed development is of a class of

development for the purpose of the EIA Directive and as Schedule 7A information was submitted with the application, a screening determination was required.

12.3. The EIA Screening Determination carried out in Appendix 3 (Environmental Impact Assessment (EIA) Screening Determination) concluded that the proposed development would not be likely to have significant effects on the environment, and that an EIAR is not required. This conclusion was reached having regard to:

1. the criteria set out in schedule 7, in particular:

(a) the relatively limited nature and scale of the proposed SHD, which is substantially below the thresholds in respect of Schedule 5 Part 2 Class 10 (b) (i) (number of dwelling units), Schedule 5 Part 2 Class 10 (b) (iv) (site area), and Schedule 5 Part 2 Class 14 (demolition works), of the Planning & Development Regulations, 2001 (as amended),

(b) the site location comprising a brownfield site of very limited biodiversity value, within the built-up urban area on major town centre zoned land, in close proximity to very good public transport infrastructure, and served by public foul (combined) and surface water sewers,

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

(d) the location of the development outside of any sensitive location specified in article 299C (1)(a)(v) of the Planning & Development Regulations, 2001 (as amended).

2. The results of other relevant assessments of the effects on the environment submitted by the applicant.

3. The features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise have been significant effects on the environment.

13.0 Planning Assessment

13.1. In terms of assessing this SHD planning application there are four separate elements: a planning assessment (section 13), an environmental impact assessment (EIA) screening (section 12), an appropriate assessment (AA) screening (section 14), and

a water framework directive (WFD) assessment (section 15). This planning assessment section addresses issues that are not more appropriately addressed in these other sections, and it should be read in conjunction with these sections.

13.2. Having examined the application details and all other documentation on file, including the DLRCC Chief Executive's Report dated 4th March 2021, the third party submissions, the observations from the prescribed bodies, having inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the substantive issues in this application are as follows:

- Current Activity on Site
- Zoning and Principle of Development
- Potential Material Contraventions Identified in the Original SHD Application
- Density and Building Height
- Site Layout, Design, and Impact on Existing and Future Residential Amenity
- Daylight and Sunlight
- Impact on Architectural Heritage
- Car Parking
- The Planning Authority's Recommended Reasons for Refusal
- Other Matters
- Issues Subject of Material Contravention / Limited Agenda Oral Hearing

13.3. I again highlight that the Board granted permission under ABP-309098-21 subject to 28 conditions on 28th April 2021 for this proposed development. The Board's decision was subject of JR and the decision was subsequently quashed. It was ordered that the matter be remitted to the Board. The application was provided with a new reference number i.e. ABP-320208-24. I am the new Inspector assigned to the case and I am assessing the file de novo.

13.4. When the original SHD application (ABP-309098-21) was received by the Board on 7th January 2021 the relevant development plan was the DLRCDP 2016-2022. Since the decision to grant permission under ABP-309098-21 was made the 2016-2022 Plan has been replaced by the DLRCDP 2022-2028. As this application is being re-

assessed it must be considered against the current plan in place i.e. the DLRCDP 2022-2028. There are also some other documents that have been updated since the original SHD application was made e.g. Compact Settlement Guidelines (2024), and these are referred to throughout this Planning Assessment, where relevant.

Current Activity on Site

- 13.5. At the outset I would draw the Commission's attention to the fact that planning permission was subsequently granted on site under D21A/1041 / ABP-314309-22 for 74 BTR apartments in two buildings, up to eight and seven storeys in height respectively, plus a commercial unit and a café. On my site inspection the previous surface car parking use had been discontinued, and early stage construction activity was ongoing.

Zoning and Principle of Development

- 13.6. The site subject of the proposed development is zoned 'Objective MTC - To protect, provide for and-or improve major town centre facilities' under the DLRCDP 2022-2028.
- 13.7. The structure to be demolished is of limited scale and value and no concern has been expressed by third parties in relation to its demolition.
- 13.8. Both 'Residential – Build to Rent' and 'Tea Room/Café' are permitted in principle under this zoning objective as per table 13.1.11 of the Plan. Though overwhelmingly a residential development, the café use would provide some commercial activity on site, reflective of the zoning objective. Its location in the north east corner of the site would be relatively close to the ground floor commercial units in Harbour Square which address Crofton Road and would extend the existing street frontage of commercial activity into the subject site. A small public plaza area would be created adjacent to Crofton Road as a result of the proposed building line which responds to the different established building lines of Harbour Square to the east and Charlemont Terrace to the west. 'Open Space' is permitted in principle under the zoning objective. A pedestrian link along the eastern boundary would facilitate the connection of Crofton Road with the town centre area (Eblana Avenue/Sussex Street), though full permeability is dependent on third party land. I consider the proposed development to be consistent with the zoning objective.

13.9. The surface car park use presented as a significantly underdeveloped use on a relatively prominent site in the town centre zoned area so the development of it and the creation of a more urban streetscape would be very beneficial in terms of compact urban growth and the strengthening of the urban character of the area. Therefore, I consider that the principle of the proposed development is acceptable on site.

Potential Material Contraventions Identified in the Original SHD Application

13.10. Section 9(6)(a) of the Planning and Development (Housing) and Residential Tenancies Act, 2016, states that the Board¹⁹ may decide to grant permission for a proposed SHD in respect of an application under section 4, even where the proposed development, or a part of it, contravenes materially the development plan or Local Area Plan (LAP) relating to the area concerned. The exception to this is in relation to the zoning of land. Subsection (c) states ‘Where the proposed strategic housing development would materially contravene the development plan or local area plan, as the case may be, other than in relation to the zoning of the land, then the Board may only grant permission in accordance with paragraph (a) where it considers that, if section 37(2)(b) of the Act of 2000 were to apply, it would grant permission for the proposed development’. The circumstances whereby a grant can be made for a material contravention as outlined in section 37(2)(b) are set out in Footnote 7 on page 14 of this IR.

13.11. The application was accompanied by a Statement of Material Contravention of the DLRCDP 2016-2022. It considered that the proposed development may be considered to materially contravene the 2016-2022 Plan in relation to four aspects i.e. building height, car parking provision, unit mix, and private open space provision. Although the SHD application is to be assessed under the current 2022-2028 Plan, in the interest of completeness I will specifically address the four aspects identified by the applicant as being potential material contraventions of the previous DLRCDP 2016-2022 which was the operative Plan at the time the original SHD application was lodged in 2021. The material contraventions identified in the Statement of Material Contravention submitted with the application are no longer considered material contraventions when viewed in the context of the current operative plan (the DLRCDP 2022-2028) for the

¹⁹ Now the Commission.

reasons which I have set out below. The exception to this is private amenity space which would be a material contravention of the current Plan. The Commission will find a full assessment of each issue in the relevant sections of my report.

Building Height

13.12. Proposed Building 01 is up to 13 storeys in height and proposed Building 02 is up to nine storeys in height. I refer the Commission to paragraphs 13.42-13.66 of my report where I have assessed building height in detail. I conclude that the proposed development would not be acceptable in the context of the DLRCDP 2022-2028 and that permission should be refused on this basis. However, I do not consider that the proposed height would comprise a material contravention of the Plan.

13.13. The reason that I do not consider the proposed height to comprise a material contravention of the Plan is because of the wording used in Appendix 17 (Interim Dun Laoghaire Urban Framework Plan). Subsection 17.6 (Placemaking and creating vitality) is particularly relevant. Excerpts include (with underlining added):

- '(T)he Planning Authority will have regard to the visual impact such development will have on the existing skyline when viewed from surrounding areas ...'
- 'The character of Dún Laoghaire Town Centre will be protected and intensification should be promoted primarily through compact urban form rather than taller buildings'.
- 'New development should strive to be contextual ...'

13.14. The specific language used in the appendix, in my opinion, implies a degree of flexibility in terms of building height. Further to my consideration of the performance based criteria as set out in the Building Height Strategy in Table 13.2 of this IR I conclude that the proposed development would not be appropriate at this location. However, the fact that I consider that the proposed development would contravene the Plan does not mean that it would be a material contravention, given the provisions of the previous paragraph and the implied flexibility as set out.

Car Parking Provision

13.15. I address car parking provision in detail in paragraphs 13.180-13.196. The proposed development provides three car parking spaces. Car parking requirements have been significantly altered in the DLRCDP 2022-2028. Parking zones and maximum

standards have been introduced. Table 12.5 (Car Parking Zones and Standards) does not specify a car parking standard for apartments in Zone 1, within which the site is located. Where this occurs the planning authority shall determine the requirement for car parking having regard to identified assessment criteria. Subsection 12.4.5.2 (Application of Standards) also states that 'In certain instances, in Zones 1 and 2 the Planning Authority may ... consider that no parking spaces are required'. Given this, I do not consider that a material contravention of the Plan arises in relation to this issue.

Unit Mix

- 13.16. The proposed development is for 102 apartments: 80 (78.4%) one-bed and 22 (21.6%) two-bed units.
- 13.17. Table 12.1 (Apartment Mix Requirements) of the DLRCDP 2022-2028 states that applications for more than 50 apartments in an existing built-up area may include up to 80% studio, one and two bed units, with no more than 30% of the overall development as a combination of one bed and studios, and no more than 20% of the overall development as studios. There is a requirement for a minimum of 20% three or more bedroom units. The proposed development would not comply with this mix.
- 13.18. However, subsection 12.3.6 (Build-to-Rent Accommodation) states that all proposed BTR accommodation must comply with SPPR 8 of the Apartment Guidelines (2020) 'and any amending SPPR as appropriate'. As set out in subsection 7.6 of this IR, notwithstanding that a number of subsequent iterations of the Apartment Guidelines have been introduced, the 2020 version of the Guidelines remains applicable to BTR accommodation.
- 13.19. Given that the DLRCDP 2022-2028 states that all proposed accommodation must comply with SPPR 8 of the Apartment Guidelines 2020, and as SPPR 8 (i) states that no restrictions on dwelling mix shall apply, in my opinion the proposed housing mix would not materially contravene the DLRCDP 2022-2028.

Private Open Space Provision

- 13.20. Fifteen of the proposed apartment units would not provide any private open space and would not comply with the provisions of Table 12.11 (Balconies / Winter Gardens: Minimum Private Open Space Standards for Apartment Developments) of the

DLRCDP 2022-2028. Although subsection 12.3.6 (Build-to-Rent Accommodation) of the Plan states that 'All proposed BTR accommodation must comply with SPPR 7 and SPPR 8' of the 2020 Apartment Guidelines, it has been established that the flexibility relating to private open space in SPPR 8 does not allow for a complete omission of private open space. Therefore, to permit 15 apartments with no private open space would comprise a material contravention of the DLRCDP 2022-2028. The private open space requirements for the other apartments are met.

13.21. There is no recourse under SHD legislation to seek further information. Having regard to the relevant provisions of the DLRCDP 2022-2028, in particular Table 12.11, this is not a matter that can be addressed by way of condition, in my opinion. Therefore, if the Commission are minded to grant planning permission this matter may be addressed by way of a limited agenda oral hearing whereby the applicant and the local authority are requested to address the issue. If a limited agenda oral hearing takes place, it would focus only on the issues contained within the limited agenda. I would direct the Commission to Section 18 of the Planning and Development (Housing) Residential Tenancies Act 2016 which allows for an oral hearing to be held in exceptional circumstances. As set out in my assessment however, given the substantive concerns and material redesign of the scheme that would be required I would not recommend this course of action.

Density and Building Height

13.22. The issues of density and, more particularly, building height are raised in most of the submissions received. The issues are inter-related and I consider it appropriate that they are separately assessed under the same broad heading.

Density

Proposed Density

13.23. The applicant's Statement of Consistency and the DLR Chief Executive's Report, written in the context of the DLRCDP 2016-2022, consider that the net residential density on site is approximately 309 units per hectare i.e. 102 apartments on a 0.33 hectares site. Notwithstanding, in my opinion, a more accurate density is obtained by using Appendix B (Measuring Residential Density) of the Compact Settlement

Guidelines (2024). This results in a slightly higher net density on site of approximately 313uph.

Table 13.1 – Applicable Density as per Appendix B (Measuring Residential Density) of the Compact Settlement Guidelines (2024)

Required information

Net site area – 0.33 hectares

Overall gross floor area (GFA) – 8,765sqm

Residential GFA – 8,672sqm (including internal facilities and amenities)

Non-residential GFA – 93sqm (café)

Number of residential units – 102

Calculation

Residential GFA as a portion of development – $8,672 / 8,765 = 98.9\%$

Site area for density purposes – $0.33 \text{ hectares} \times 98.9\% = 0.326 \text{ hectares}$

Residential density – $102 / 0.326 = 313\text{uph (net)}$

Application

13.24. As per the previous paragraph the application cites a proposed density of 309uph. Paragraphs 3.58 and 3.59 of the supporting Statement of Consistency reference the town centre location and proximity to public transport and state ‘the site is considered to be generally suitable for higher density development ... will contribute positively to increased residential densities within Dun Laoghaire, as sought by the Planning Authority as well as by national and regional policy and guidelines’. Section 05 (Efficiency) of the SHD Design Appraisal states ‘The proposed development will provide an increase in the efficient use of this infill site by generating a density of an appropriate level ...’ These are just a couple of the references to density in the supporting documentation.

Chief Executive’s Report

13.25. The report was prepared under the now expired DLRCDP 2016-2022. Subsection 8.2.3.2 (Quantitative Standards) (ii) (Residential Density) of the Plan stated that the number of dwellings on site should generally be determined having regard to the

Sustainable Residential Development Guidelines (2009). A minimum of 50uph would be generally required in a site such as this. Subsection 11.2 (Residential Density) of the report, while acknowledging the proximity to high quality public transport, states ‘the Planning Authority is of the opinion that the density is excessive on this site, and that the scheme as proposed would represent overdevelopment of the site’. Density is cited in the first recommended reason for refusal.

Dun Laoghaire-Rathdown County Development Plan (DLRCDP) 2022-2028

- 13.26. The Plan itself does not set out specific densities. Subsection 12.3.3.2 (Residential Densities) states ‘In general, the number of dwellings (houses or apartments) to be provided on a site should be determined with reference to ... ‘Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities’ (2009) [and] Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities (2020). As a general principle ... the objective is to optimise the density of development in response to type of site, location, and accessibility to public transport. (See policy PHP18²⁰ ...)’

Sustainable Residential Development Guidelines (2009)

- 13.27. Although these have been replaced by the Compact Settlement Guidelines (2024) they are relevant to this SHD application because they are specifically cited in the DLRCDP 2022-2028 and no caveat has been applied e.g. amended or replacement guidelines.
- 13.28. The subject site would sit within a number of the locations cited in chapter 5 (Cities and larger towns) as an appropriate location for increased densities e.g. town centre, brownfield site within town centre, public transport corridor, and inner suburban/infill. Paragraph 5.6, in relation to town centres, states ‘there should, in principle, be no upper limit on the number of dwellings that may be provided within any town ... centre site ... ²¹’, subject to safeguards. In relation to public transport corridors paragraph 5.8

²⁰ Policy Objective PHP18 (Residential Density) – ‘It is a Policy Objective to: Increase housing (houses and apartments) supply and promote compact urban growth through the consolidation and re-intensification of infill/brownfield sites having regard to proximity and accessibility considerations, and development management criteria set out in Chapter 12. Encourage higher residential densities provided that proposals provide for high quality design and ensure a balance between the protection of existing residential amenities and the established character of the surrounding area, with the need to provide for high quality sustainable residential development’.

²¹ Paragraph 5.6 specifically states ‘the number of dwellings’ as opposed as opposed to ‘density’.

states 'In general, minimum net densities of 50 dwellings per hectare ... should be applied within public transport corridors ...'

13.29. Having regard to the foregoing, the proposed density of 313uph would not contravene the density provisions of the DLRCDP 2022-2028 because it would be consistent with the Sustainable Residential Development Guidelines (2009) i.e. it is in a town centre area where there is no upper limit on the number of dwellings to be provided and it would exceed the minimum 50uph within a public transport corridor.

Apartment Guidelines (2020)

13.30. As with the Sustainable Residential Development Guidelines (2009), although the Apartment Guidelines (2020) have been updated, in terms of density it is the 2020 version that is specifically cited and, again, no 'as amended' or 'as replaced' caveat applies.

13.31. Paragraph 2.4 states that central and/or accessible urban locations, the definitions of which the subject site complies with, are 'generally suitable for ... higher density development ... that may wholly comprise apartments ...' However, no relevant density parameters are set.

13.32. Therefore, the proposed density of 313uph would not contravene the density provisions of the DLRCDP 2022-2028 because the Apartment Guidelines (2020) states that development in a central/accessible location is suitable for higher density development, without any range being cited.

Conclusion on density in the context of the DLRCDP 2022-2028

13.33. The DLRCDP 2022-2028 does not set specific density parameters. Instead, the Plan states that the number of apartments to be provided on site should be determined in accordance with the Sustainable Residential Development Guidelines (2009) and the Apartment Guidelines (2009). The proposed 313uph density would not be inconsistent with either of those two documents and therefore it could not be considered as contravening the provisions of the DLRCDP 2022-2028.

13.34. While the proposed development would not materially contravene the Plan in terms of the density proposed, the Plan also refers to the requirement for compliance with development management criteria, high quality design, and protection of both existing residential amenities and the established character of the surrounding area, as per

policy objective PHP18. Therefore, notwithstanding the absence of a cap on density within the Plan, the wider impact of the proposed development can still render a density unacceptably excessive. As a result of my consideration of other aspects of the proposed development, in particular building height, I conclude that the proposed development is excessive in building height and the density proposed contributes to the overall conclusion that the development as proposed would not be appropriate at this location.

Compact Settlement Guidelines (2024)

- 13.35. Notwithstanding that the proposed development would not materially contravene any density parameter in the DLRCDP 2022-2028, the relevant section 28 guidelines currently in place for residential density are the Compact Settlement Guidelines (2024).
- 13.36. I consider the subject site to be in an 'urban neighbourhood' as per table 3.1 of the Guidelines. Residential densities in the range 50uph-250uph 'shall generally be applied'. The proposed development (313uph) would clearly significantly exceed the maximum 250uph.
- 13.37. Exceptions to the density parameters outlined are contained in subsection 3.3.6. Subsection (a) states 'Densities that exceed 300 dph (net) are open for consideration on a plan-led basis only and where the opportunity for densities and building heights that are greater than prevailing densities and building height is identified in a relevant statutory plan'. That does not apply in this case as the site is not identified as such within the DLRCDP 2022-2028, including Appendix 17 (Interim Dún Laoghaire Urban Framework Plan). This is addressed in greater detail in the following 'Building Height' section (paragraphs 13.42-13.66).
- 13.38. I consider that the density proposed would be significantly in excess of the general maximum density envisaged on a site such as this and the proposed development would not comply with the plan-led requirement for such a density. The proposed development would therefore be contrary to the provisions of the Compact Settlement Guidelines (2024) in terms of density, and I recommend that permission be refused on this basis.

Proposed Variation No. 1 to the DLRCDP 2022-2028

13.39. The proposed variation includes reference to density. The publicly available planning authority website, accessed on 8th June 2026, stated that the elected members agreed to make the proposed variation with material alterations on 21st April 2026. Submissions/observations on the material alterations can be made until June 26th. While not yet adopted or part of the Plan, I draw the Commission's attention to it for information.

Assessment and conclusion

13.40. The proposed density is 313uph. The Chief Executive's Report prepared under the DLRCDP 2016-2022 considered the proposed density to be excessive and it was cited in the first recommended reason for refusal. The current DLRCDP 2022-2028 does not set out a density range. Instead it states that density should be determined with reference to the Sustainable Residential Development Guidelines (2009) and the Apartment Guidelines (2020). As the proposed density would not specifically be contrary to either Guideline, I consider no material contravention of the DLRCDP 2022-2028 would occur. However, the 313uph density would be substantially higher than the relevant density range in the Compact Settlement Guidelines (2024) and the proposed development would not qualify for an exemption to this.

13.41. Compliance or otherwise with density parameters is only one consideration in a planning assessment. Other considerations include development management criteria, high quality design, and protection of both existing residential amenities and the established character of the surrounding area. I conclude that the proposed density would be excessive as it would not be in accordance with the density range for an urban neighbourhood as set out in the Compact Settlement Guidelines (2024) and the proposed development would not qualify for an exemption to same. Taking into consideration other subsections of this Planning Assessment, specifically building height, the excessive density forms a significant consideration in my overall conclusion that the development as proposed would not be appropriate at this location.

Building Height

Proposed Height

- 13.42. There is a dispute in some of the submissions about the height of proposed Building 01, which is the building closer to Crofton Road. The public notices state that it extends to 13 storeys, whereas submissions claim it is 14 storeys because of the design feature at the top. Given that there are 13 floor plates I have no concern about the height description in the public notices. Building 02 extends to nine storeys.
- 13.43. In terms of surrounding development, Harbour View is eight storeys in height adjacent to the east, Charlemont Terrace is three storeys over basement, Charlemont Terrace Mews houses are two storeys in height, Charlemont Avenue houses are single storey over basement, and development adjacent to the south and south east i.e. the hospital, Mercy House, and Niche Living BTR range between four and six storeys in height. Therefore, while existing heights in the vicinity of the site vary considerably the proposed development would be higher than the existing receiving built environment. There is a slight increase in ground levels in a southerly direction so the finished floor levels of the proposed development would be lower than those of existing buildings to the south.

Application

- 13.44. The documentation submitted with the application supports the proposed building heights, in particular the 13 storeys of Building 01. For example:
- ‘The part 13 no. storey height of Building 01 will introduce a landmark feature at the western edge of the Seafront Quarter²² to identify the ‘Gateway’ to this town centre area along the seafront and respond and balance the existing building heights within Dun Laoghaire town centre at the Maritime Museum of Ireland (former Mariners Church), the Lexicon, and the clock tower on the County Hall building. This component will appropriately define the corner of Crofton Road at this location, replicating the role of the Lexicon Building at the eastern end of the Seafront Quarter on Queen’s Road, providing a justified urban design solution in this regard’ (paragraph 3.8 of the Statement of Consistency).

²² A town centre character area identified in Appendix 12 (Dún Laoghaire Urban Framework Plan) of the DLRCDP 2016-2022.

- 'The height of the proposed development is considered to be appropriate and visually well related to the existing urban environment' (paragraph 3.65 of the Statement of Consistency).
- 'Owing to the site's accessible location ... an increased building height is considered to be appropriate in the context of Urban Development and Building Height Guidelines ... The proposed building height will make optimum use of the lands ... There is a clear existing context for a building of the proposed height at the Seafront Quarter in urban design terms. The height of Building 02 and lower elements of Building 01 clearly relate to prevailing height in the immediate surrounding urban area' (paragraphs 3.70-3.71 of the Statement of Consistency).
- 'The proposed development also provides a range of forms and heights to reflect and respond to the variety of scales which lies in the immediate context' (page 20 of the SHD Design Appraisal).
- 'The proposed new taller element on Building One adds an important urban marker along the Dún Laoghaire harbour frontage whilst continuing to acknowledge the importance of the taller St Michael's and Mariners Church spires as important focal points both in the town and when viewed from the piers and Dublin Bay. The location of the site allowed it to uniquely contribute to the urban narrative of the Seafront Quarter and Dún Laoghaire. By having a portion of one building higher, the scheme provides a positive urban contribution that adds to the hierarchical relationship between long established landmark buildings, which remain the taller buildings in the skyline' (page 22 of the SHD Design Appraisal).
- '(T)he proposed building would not be as prominent as the two church spires and when seen from the ends of the piers it would barely break the skyline above the Dublin Mountains, in contrast with the very definite points created by the two church spires and even the tower of the Royal Marine Hotel, seen midway between the two church spires. The proposed building to the right of centre provides a balance in the view ... looking at an angle across the town's maritime frontage ... the building would project above the skyline but would nonetheless make a positive contribution to the character of the historic town' (page 21 of the AHIA).

Chief Executive's Report

13.45. The report was prepared under the now expired DLRCDP 2016-2022. Having considered the provisions of both the Architects Department and Conservation Officer's reports, appendices 9 (Building Heights Strategy) and 12 (Dún Laoghaire Urban Framework Plan) of the 2016-2022 Plan, the Building Height Guidelines (2018), and the application documentation, the report concluded that the proposed development would be contrary to the appendices of the Plan and the Guidelines, would have a detrimental impact on the amenities of neighbouring residents, would adversely affect the protected structures, and would contravene Policy LHB6 (Views and Prospects) of the Plan.

13.46. The issue of building height formed a significant element of the first recommended reason for refusal based on the Plan in effect at that time. Notwithstanding, should permission be granted, it was recommended, among other conditions, that five storeys be omitted from Building 01 and one floor be omitted from Building 02.

Dun Laoghaire-Rathdown County Development Plan (DLRCDP 2022-2028)

13.47. I note initially that the Plan does not identify specific maximum building heights. Within the main body of the Plan there are references to building height such as policy objectives PHP20 (Protection of Existing Residential Amenity)²³ and PHP42 (Building Design & Height) which requires that new development complies with appendix 5 (Building Height Strategy). The main building height provisions are addressed in appendices 5 and 17.

Appendix 5 (Building Height Strategy)

13.48. The following elements of the appendix are particularly relevant:

- Section 3.3 (Dun Laoghaire) sets out the evolving pattern of building height in the town. It is stated 'The town centre area ... incorporates a number of parcels of underdeveloped land'. It is acknowledged that 'It may be entirely appropriate ... to provide landmark buildings at key strategic points throughout the Town Centre', though a landmark building should not be interpreted as having to be higher than its surroundings. In advance of a formal LAP being prepared, an Urban Structure

²³ 'It is a Policy Objective to ensure the residential amenity of existing homes in the Built Up Area is protected where they are adjacent to proposed higher density and greater height infill developments'.

Plan has been included as part of the DLRCDP 2022-2028. 'For the core area of the town, the Plan continues to acknowledge the importance of St. Michael's and Mariners Church spires as an important focal points [sic] both in the town and when viewed from the piers and Dublin Bay. It is an objective of the Urban Structure Plan that this hierarchical relationship between long established landmark buildings and new infill development be preserved and maintained. The Urban Structure Plan also aims to ensure that new development should be contextual, should seek to re-establish streetscapes, should be appropriately scaled and be rich in materials and details consistent with the existing typology of the area'.

- Section 4 sets out a policy approach for the assessment of building height in the County which aligns with the Building Heights Guidelines (2018). Of importance in relation to the subject application is 'The appropriate vehicle for identifying areas where increased building height will be supported ... is via Local Area Plans, the CDP or SDZ's²⁴. A Dun Laoghaire LAP is cited in subsection 4.2.11 (Forthcoming Local Plans/Other), however this has not, to date, been adopted.
- Policy objectives are as follows:
 - Policy objective BHS 1 (Increased Height) – 'to support the consideration of increased heights and also to consider taller buildings where appropriate in the Major Town Centres of Dún Laoghaire ... and in suitable areas well served by public transport links (i.e. within 1000 metre/10 minute walk band of ... DART Stations ... provided that proposals ensure a balance between the reasonable protection of existing amenities and environmental sensitivities, protection of residential amenity and the established character of the area ... there may be instances where an argument can be made for increased height and/or taller buildings in the areas mentioned above. In those instances, any such proposals must be assessed in accordance with the performance based criteria set out in table 5.1 [of the appendix] ... The onus will be on the applicant to demonstrate compliance with the criteria'.
 - Policy objective BHS 2 (Building Height in areas covered by an approved LAP or UFP forming part of the County Plan) – 'to promote and support proposed

²⁴ Strategic Development Zones

heights ... as set out for certain areas in this County Development Plan (... and Dun Laoghaire Urban Framework Plan area) ... in order to apply SPPR 3 [of the Building Heights Guidelines (2018)] there may be instances where an argument can be made for increased height and/or taller buildings in the areas mentioned above on the basis of placemaking. In those instances, any such proposals must be assessed in accordance with the performance based criteria set out in table 5.1. The onus will be on the applicant to demonstrate compliance with the criteria’.

Each policy objective states that increased height can be defined as buildings taller than the prevailing building height in the surrounding area and taller buildings are those that are more than two storeys taller than the prevailing height for the area. Therefore, the proposed development proposes increased height and proposed Building 01 is a ‘taller building’.

- Section 6 relates to landmark buildings, which it defines as ‘a single outstanding building which is either taller or of a more notable design than its neighbours’. They may also be created through other means such as quality design or public space. The application considers the proposed development i.e. Building 01, to be a landmark building²⁵, and I agree that it would be. It is stated that ‘The identification of sites for landmark buildings will generally be conducted through the Local Area Plan/Strategic Development Zone/Urban Framework Plan/Development Plan Variation process’ and it is also stated that ‘The issue of landmark buildings must be a secondary consideration to getting the streets, spaces, frontages, buildings and overall functioning of the place right’. Documentation required to accompany an application for a landmark building is set out.

13.49. In summary, the appendix acknowledges that Dun Laoghaire town centre has some underdeveloped areas, which would include the subject site, and that landmark buildings may be entirely appropriate at key strategic points. However, the church spires are important focal points, and this should be maintained. Identified areas for increased height in Dun Laoghaire will be set out in the UFP. Where increased heights and taller buildings are considered, proposals must also balance other considerations.

²⁵ It is described as such in the application documentation e.g. paragraphs 1.10, 3.8, 4.16, and 5.77 of the Statement of Consistency and pages 27 and 29 of the SHD Design Appraisal.

Appendix 17 (Interim Dún Laoghaire Urban Framework Plan) (UFP)

- 13.50. The 'Urban Structure' map in subsection 17.5 identifies the subject site as 'Opportunities / potential development to be explored'.
- 13.51. The UFP identifies 'key projects' 'to achieve the objective of reconnecting the Town Centre to the Waterfront ...' One of these i.e. subsection 17.5.5 (The Hospital and Boylan Centre), is adjacent to the subject site. I do not consider, from the content of the subsection, that the site subject of this SHD application is contained within 'The Hospital and Boylan Centre' project area. For example, there is no explicit reference to the (at that time) substantial car park, the site is not under the control of the hospital, the subject site is not included in the accompanying sketch drawing on page 7, and the subject site is relatively remote from and unconnected to the referenced Boylan Centre / Eblana Avenue area²⁶. However, even in the event that the subject site was taken to be part of the hospital and Boylan Centre site, this alone would not justify the provision of the 13 storey building at this location.
- 13.52. Subsection 17.6 (Placemaking and creating vitality) contains the following very relevant commentary. 'When considering development proposals in Dún Laoghaire, the Planning Authority will have regard to the visual impact such development will have on the existing skyline when viewed from surrounding areas and, in particular from the East and West Piers of the Harbour ... The character of Dún Laoghaire Town Centre will be protected and intensification should be promoted primarily through compact urban form rather than taller buildings. A key objective is to protect the unique skyline, particularly for views from the ends of the East and West Pier ... Only the spires of St. Michael's and Mariners' Church (the Maritime Museum), the tower of the County Hall and the 'prow' of the new dlr Lexicon rise above the overall urban skyline. It is an objective that this hierarchical relationship between established landmark buildings and new infill development be preserved and maintained. New development should strive to be contextual, seek to re-establish streetscapes, be appropriately scaled and be rich in materials and details consistent with the existing typology of the Town Centre. At the same time, it is an objective to protect, preserve and enhance the unique

²⁶ Notwithstanding, I note that it is included in the Hospital site under the previous DLRCDP 2016-2022, as per the top sketch on page 6 of Appendix 12 (Dún Laoghaire Urban Framework Plan).

historic character, ambiance and identity of the adjoining residential streets and communities’.

13.53. The northern part of the subject site is identified as the north western boundary of the Seafront Quarter. It is described in subsection 17.6.5, however there is no specific reference to development on the car park site.

13.54. In summary, while the subject site is identified as one where there are ‘opportunities / potential development to be explored’, it is not explicitly identified as a ‘key project’ site. The visual impact of proposed development on the existing skyline will be considered, in particular when viewed from the piers. Intensification of the town centre should be primarily through compact urban form rather than taller buildings. The urban skyline created by the established landmark buildings should be preserved and maintained.

Conclusion on building height in the context of the DLRCDP 2022-2028

13.55. The DLRCDP 2022-2028 does not identify specific maximum building heights. Building heights for the proposed development are primarily addressed in appendices 5 and 17. Appendix 5 is the general building height strategy for the county. Appendix 17 relates specifically to Dun Laoghaire. Appendix 17 states that intensification of the town centre should be primarily through compact urban form rather than taller buildings and that the urban skyline created by the established landmark buildings should be preserved and maintained.

Building Height Guidelines (2018)

13.56. The Building Height Guidelines (2018) are the most relevant Guidelines in terms of the proposed building height. I am satisfied that Appendix 5 (Building Height Strategy) of the DLRCDP 2022-2028 was prepared in accordance with these Guidelines. Page 2 of the appendix states ‘The aim of this Strategy is to ensure the protection of the built heritage of the County and general residential amenities while encouraging higher densities and heights where appropriate in accordance with the ... Section 28 “Urban Development and Building Heights, Guidelines for Planning Authorities (and any future Section 28 Guidelines), and to ensure a plan-led approach to the assessment of taller buildings in the County’.

Assessment and Conclusion

13.57. Having regard to the provisions of the DLRCDP 2022-2028, and in particular appendices 5 and 17, it is clear that the provision of a landmark building is not envisaged at this location in Dun Laoghaire. Subsection 4.2 of appendix 5 states that 'The appropriate vehicle for identifying areas where increased building height will be supported ... is via Local Area Plans, the CDP or SDZ's'. Appendix 17 of the DLRCDP 2022-2028 specifically relates to Dun Laoghaire and it does not encourage or support taller buildings such as that proposed. Subsection 17.6 contains the most relevant commentary, including:

- 'When considering development proposals in Dún Laoghaire, the Planning Authority will have regard to the visual impact such development will have on the existing skyline when viewed from surrounding areas and, in particular from the East and West Piers of the Harbour'.
- 'The character of Dún Laoghaire Town Centre will be protected and intensification should be promoted primarily through compact urban form rather than taller buildings. A key objective is to protect the unique skyline, particularly for views from the ends of the East and West Pier'.
- 'Only the spires of St. Michael's and Mariners' Church (the Maritime Museum), the tower of the County Hall and the 'prow' of the new dlr LexIcon rise above the overall urban skyline. It is an objective that this hierarchical relationship between established landmark buildings and new infill development be preserved and maintained. New development should strive to be contextual, seek to re-establish streetscapes, be appropriately scaled and be rich in materials and details consistent with the existing typology of the Town Centre. At the same time, it is an objective to protect, preserve and enhance the unique historic character, ambiance and identity of the adjoining residential streets and communities'.

13.58. Having regard to the provisions of subsection 17.6 the Plan envisages new development in Dun Laoghaire having a compact urban form with existing established landmark buildings maintaining their primacy on the urban skyline. It should be noted that the established landmark buildings cited are all public civic buildings i.e. churches, the Council offices, and a public library, rather than 'private' development.

13.59. Notwithstanding, the application sets out an argument for the acceptability of the proposed development, and in particular the height of proposed Building 01 which extends to 13 storeys. The height of the proposed building was one of the two issues cited in the Board's Pre Application Consultation Opinion that needed to be addressed so that it would constitute a reasonable basis for the SHD application (the other issue relating to architectural heritage).

13.60. The application contains a number of documents which set out the applicant's position that a development of this height is acceptable at this location. For example:

- Statement of Response to An Bord Pleanála Opinion – Paragraphs 2.18-2.142 (pages 6-26) relate²⁷. Paragraph 2.14 notes that the UFP contains no upper height limits and the following paragraph notes that appendix 9 (Building Height Strategy) of the 2016-2022 Plan states that 'It may be entirely appropriate ... to provide landmark buildings at key strategic points throughout the [Dun Laoghaire] town centre'.²⁸

The proposed development is referred to in paragraph 2.26 as being suitable for a landmark scheme because it would mark a gateway to the town centre and would define a transport node. Apart from the fact that the site is not identified in Appendix 17 of the current Plan as being suitable for a landmark development, I am of the view that there is no necessity whatsoever for a landmark to be required to mark entry to the town or define the Dart station/bus terminus. I consider that it is clear to residents and visitors that you are in Dun Laoghaire and a 13 storey apartment building, located without the support of any statutory plan, is not required to notify people of this. The transport node is already more than adequately marked by the presence of DLR County Hall on the opposite side of Crofton Road.

²⁷ This document contains significant typographical errors in relation to paragraph numbering. For example, on pages 4/5 the paragraph numbers go 2.16, 2.17, 2.1, 2.2 ... on page 6 they go 2.9, 2.18, 2.19 ... and on pages 7/8 they go 2.24, 2.25, 2.10, 2.11, 2.12, 2.13, 2.14, 2.26, 2.27 ... Notwithstanding, I use the paragraph numbers cited in the document.

²⁸ I note that subsection 3.3 of Appendix 5 of the current 2022-2028 Plan states the same thing. However, immediately after this, both appendices state 'Notwithstanding, the Plan states that "There is, however, no implication that a 'landmark building' should be interpreted as having to be a building higher than its surroundings'. Therefore, just because a landmark building may be acceptable does not imply that this necessarily relates to height.

Paragraphs 2.55-2.142 justify the proposed development in the context of the requirements of the Building Heights Guidelines (2018). Notwithstanding, the DLRCDP 2022-2028 was also prepared having regard to these and the result was appendices 5 and 17, which do not support increased height at this location.

- Statement of Consistency – Building height is referenced in paragraphs 3.62-3.79. This justifies the additional height as a result of the location at the edge of the Seafront Quarter and proximity to public transport.
- Landscape and Visual Impact Assessment (LVIA) – This contains photomontages of the impact of the proposed development from 30 viewpoints such as along the coastline, from the East and West Piers, along Crofton Road, and from the built-up area of the town. I consider that proposed Building 01 would comprise a significant presence along the streetscape and from the general area of the piers. However, from other public areas existing built fabric would block views of the proposed development and from further distances along the coastline there would be a reduction in the visual impact of it.
- SHD Design Appraisal – Section 05 (Efficiency) also sets out the proposed development in the context of both the Building Heights Guidelines (2018) and the ‘general principles’ of appendix 9 of the expired Plan.
- Architectural Heritage Impact Assessment (AHIA) – This concludes that the proposed development would provide the necessary transition between heights, among other issues, and would not have an adverse impact on the historic environment.

13.61. Table 5.1 of Appendix 5 sets out the criteria for assessing proposals for increased height. I consider the proposed development in the context of this in the following table.

Table 13.2 – Performance Criteria Assessment of the Proposed Development

Performance Criteria	Assessment
At County Level	
Proposal assists in securing objectives of the NPF in terms of focusing development in	The proposed development would redevelop a brownfield surface level car park in a major town centre location, would strengthen the built

key urban centres, fulfilling targets in relation to brownfield/infill development, and delivering compact growth.	environment and streetscape along Crofton Road, would increase the urban population, and would contribute to compact growth. I consider the proposed development would be consistent with this performance criteria.
Site must be well served by public transport i.e. within 1000 metres/10 minute walk band of LUAS stop, DART Stations or Core/Quality Bus Corridor, 500 metre/5 minute walk band of Bus Priority Route - with high capacity, frequent service, and good links to other modes of public transport.	The site is approximately 100 metres from Dun Laoghaire Dart Station which is also a public bus terminus. I consider the site location to be very well served by public transport and to be compliant with this performance criteria.
Proposal must successfully integrate into / enhance the character and public realm of the area, having regard to topography, cultural context, and setting of key landmarks. In relation to character and public realm the proposal may enclose a street or crossroads or public transport interchange to the benefit of the legibility, appearance or character of the area.	I do not consider there would be any issue with topography as there is only a relatively gentle increase in ground levels on site from north to south. The proposed height in the context of the receiving cultural environment and the setting of key landmarks is, however, a significant issue. Proposed Building 01 would be significantly higher than surrounding development in the vicinity. Subsection 17.6 of Appendix 17 states that it is an objective that the existing hierarchical relationship between established landmark buildings such as the spires of St. Michael's and Mariners' Church, the tower of the County Hall and the 'prow' of the LexIcon library, and new infill development, such as that proposed, be preserved and maintained.

	The proposed development would not comply with this performance criteria, in my opinion, given that the height of Proposed Building 01 would compete with the established landmark buildings in terms of height and visual impact.
Protected Views and Prospects: Proposals should not adversely affect the skyline or detract from key elements within the view whether in foreground, middle ground or background. A proposal may frame an important view.	Map 3 of the DLRCDP 2022-2028 identifies objectives 'To preserve Views' from the ends of the East and West Piers. The application is accompanied by documentation supporting the proposed landmark building and considers that it would 'balance the existing building heights within Dun Laoghaire town centre' (paragraph 3.8 of the Statement of Consistency). Subsection 17.6 of Appendix 17 states 'When considering development proposals in Dún Laoghaire, the Planning Authority will have regard to the visual impact such development will have on the existing skyline when viewed from surrounding areas and, in particular from the East and West Piers of the Harbour ... A key objective is to protect the unique skyline, particularly for views from the ends of the East and West Pier'. The LVIA contains a view from the end of the East Pier (View 13) but not the end of the West Pier. There are a number of viewpoints from other locations along both Piers i.e. views 10, 11, 12, 20 and 21. In my opinion the proposed development would adversely affect the skyline of Dun Laoghaire, specifically having regard to the statement that 'A key objective is to protect the unique skyline, particularly for views from the ends of the East and West Pier', and I also consider that

	it would detract from the key elements of the views i.e. the features of the civic buildings. The height of Proposed Building 01 would, in my opinion, be contrary to this performance criteria.
Infrastructural carrying capacity of area as set out in Core Strategy of CDP, relevant UFP or LAP.	I am not aware of any particular infrastructural constraints. There is no current capacity constraint at Ringsend wastewater treatment plant (WWTP).
At Neighbourhood / Street Level	
Proposal must respond to its overall natural and built environment and make a positive contribution to the urban neighbourhood and streetscape.	Paragraphs 4.48-4.99 of the supporting Statement of Consistency sets out the applicant's position as to how the proposed development complies with the provisions of the (now replaced) Sustainable Residential Development Guidelines (2009). I consider that, in principle, the development of the surface car park would be beneficial to the local area in terms of strengthening the built environment and contributing to compact growth, and in this regard it would make a positive contribution to the neighbourhood and streetscape. A new streetscape would be created by the provision of Proposed Building 01 replacing a site which effectively has no presence on the streetscape. A small public plaza and a publicly accessible cafe would be provided along the Crofton Road frontage which would positively contribute to the streetscape. However, in the wider built environment context, the height of Proposed Building 01 would not be consistent with the provisions of Appendix 17 of the DLRCDP 2022-2028 which states 'The character of Dún Laoghaire Town Centre will be protected and

	intensification should be promoted primarily through compact urban form rather than taller buildings’. As such, I do not consider that it can be concluded that the proposed development is consistent with this performance criteria.
Proposal should not be monolithic and should avoid long, uninterrupted walls of building in the form of slab blocks.	The proposed development comprises two separate buildings, both of which have very modest footprints in the context of other buildings in the vicinity e.g. Harbour Square and the hospital buildings. Though they are substantial buildings, this relates more to height than depth or width. I consider the proposed development to be compliant with this performance criteria.
Proposal must show use of high quality, well considered materials.	In my opinion the proposed materials are of high quality and are well considered and reflect a contemporary residential development. They could be subject of a standard compliance condition with the planning authority should permission be granted. I consider the proposed development to be compliant with this performance criteria.
Proposal where relevant must enhance urban design context for public spaces and key thoroughfares and marine or river/stream frontage.	A small public plaza area is proposed between Crofton Road and Proposed Building 01 which is a positive element of the proposed development. Vehicular accessibility / the right-of-way from Crofton Road to the hospital is retained/relocated along the western boundary and a pedestrian link / right-of-way which would provide permeability to the Eblana Avenue/Sussex Street area is proposed along the eastern boundary. However, full connectivity is dependent on third parties.

	There is a public road, Dart line, and harbour development between the subject site and the marine frontage. The UFP addresses how development should appear when viewed from the Piers and the proposed development would not be consistent with the Plan in this regard as set out under previous performance criteria.
Proposal must make a positive contribution to the improvement of legibility through the site or wider urban area. Where the building meets the street, public realm should be improved.	I consider the proposed development would reasonably delineate between public and communal/private spaces. A vehicular connection between Crofton Road and the hospital is proposed as is a pedestrian link between Crofton Road and the Eblana Avenue/Sussex Street area, though further third party involvement would be required to complete the pedestrian link. Both these links should be appropriately signed for the information of the public. This could be subject of a compliance condition should permission be granted. A small public plaza area is proposed between Crofton Road and Proposed Building 01. I consider that the proposed development would be consistent with this performance criteria.
Proposal must positively contribute to the mix of uses and/or building/ dwelling typologies available in the area.	I consider that the mix of uses is acceptable as set out in paragraphs 13.8 and 13.202. Though the proposed development is solely apartments the area to the west comprises a number of houses. There are other private apartment buildings in the area, such as Harbour View, and Niche Living to the south east is another BTR development. The site is also immediately adjacent to commercial and medical uses. I consider that there is a reasonable range of

	building/dwelling typologies in the area and the proposed development would contribute to this. I consider that the proposed development would be consistent with this performance criteria.
Proposal should provide an appropriate level of enclosure of streets or spaces.	The only relevant street is Crofton Road. The proposed development would significantly improve the sense of enclosure along the road given that the current use of the site is a surface car park with no frontage other than a boundary wall and a small two-storey house. The proposed building line would, in my opinion, appropriately link the different building lines presented by the set back of the Charlemont Terrace buildings and the more forward Harbour Square development. I consider that the proposed development would be consistent with this performance criteria.
Proposal should be of an urban grain that allows meaningful human contact between all levels of buildings and the street or spaces.	Apart from the taller element of Proposed Building 01 the proposed development is similar to the existing scale of development to the east and south. Pedestrian activity would be encouraged at ground floor level by the proposed pedestrian right-of-way through the site, though its full use would be reliant on additional future development. Passive surveillance to all public and communal areas would be provided from the apartments. I consider that the proposed development would be consistent with this performance criteria.
Proposal must make a positive contribution to the character and identity of the neighbourhood.	I consider that the change of use of the site from a surface car park to a BTR residential development would be a positive contribution to the character and identity of the neighbourhood, in principle, in

	terms of providing additional residential units, strengthening the built fabric of the area, and increasing public accessibility on site by the small plaza area, café, and pedestrian right-of-way. However, as set out previously, the additional height of Proposed Building 01 would have adverse consequences on a wider scale, specifically the view of the neighbourhood from the Piers and general harbour area. This would affect the hierarchical relationship between the established landmark buildings and new infill development. As such, on a wider scale, the height of Proposed Building 01 would not make a positive contribution to the character and identity of the neighbourhood.
Proposal must respect the form of buildings and landscape around the site's edges and the amenity enjoyed by neighbouring properties.	I have addressed these issues under 'Site Layout, Design, and Impact on Existing and Future Residential Amenity' (paragraphs 13.68-13.106), 'Daylight and Sunlight (paragraphs 13.107-13.161), and 'Impact on Architectural Heritage' (paragraphs 13.162-13.179) and I conclude that the proposed development would be consistent with this performance criteria.
At Site / Building Scale	
Proposed design should maximise access to natural daylight, ventilation and views and minimise overshadowing.	The proposed development is subject of a comprehensive assessment including daylight and shadowing impact in this section of the IR. The proposal for two separate buildings, as opposed to a single block, improves the building performance. I conclude that there are no particular concerns in relation to these issues.

Proposal should demonstrate how it complies with quantitative performance standards on daylight and sunlight as set out in BRE guidance “Site Layout Planning for Daylight and Sunlight” (2nd Edition). Where a proposal does not meet all the requirements, this must be clearly identified and the rationale for any alternative, compensatory design solutions must be set out. On relatively unconstrained sites requirements should be met.	Daylight and sunlight is addressed in detail in paragraphs 13.107-13.161 and I conclude that the proposed development would be acceptable in this regard.
Proposal should ensure no significant adverse impact on adjoining properties by way of overlooking, overbearing, and/or overshadowing.	Overlooking and shadowing impacts are addressed in paragraphs 13.74-13.89 and under the Daylight and Sunlight subheading (paragraphs 13.107-13.161), respectively, and I conclude that the proposed development would be acceptable in regard to these issues.
Proposal should not negatively impact on an Architectural Conservation Area (ACA) or the setting of a protected structure.	Impact on architectural heritage is addressed in paragraphs 13.162-13.179 and I conclude that the proposed development would not have a significant adverse impact on the protected structures in the vicinity.
Proposals must demonstrate regard to the relative energy cost of and expected embodied and operational	The application was accompanied by, among other documents, a Building Services M&E Report and a Sustainability Report, both dated October 2020, and a Building Lifecycle Report dated December

carbon emissions over the lifetime of the development. Proposals must demonstrate maximum energy efficiency to align with climate policy. Building height must have regard to the relative energy cost of and expected embodied carbon emissions over the lifetime of the development.	2020. I consider these to be acceptable in this regard.
County Specific Criteria	
Having regard to the County's outstanding architectural heritage which is located along the coast, where increased height and/or taller buildings are proposed within the Coastal area from Booterstown to Dalkey the proposal should protect the particular character of the coastline. Any such proposals should relate to the existing coastal towns and villages as opposed to the coastal corridor.	The Interim Dun Laoghaire UFP (Appendix 17 to the DLRCDP 2022-2028) states that 'The character of Dún Laoghaire Town Centre will be protected and intensification should be promoted primarily through compact urban form rather than taller buildings. A key objective is to protect the unique skyline, particularly for views from the ends of the East and West Pier'. Another objective is to preserve and maintain the hierarchical relationship between established landmark buildings and new infill development. In my view Proposed Building 01 is not consistent with either objective. Rather, it would visually compete with the existing civic landmark buildings in a manner contrary to the provisions of the appendix and it would not protect the particular character of the coastline.
Having regard to the high quality mountain foothill landscape that characterises	The subject site is in a major town centre zoned area and not the mountain foothill landscape.

parts of the County any proposals for increased heights and/or taller building in this area should ensure appropriate scale, height and massing so as to avoid being obtrusive.	Therefore this performance criteria is not applicable.
Additional specific requirements (applications are advised that requirement for same should be teased out at pre-planning stage).	Section 5 pre-application consultation was carried out for the proposed development as per section 5 of this IR. I consider the documentation submitted to be sufficient for assessment purposes.
Specific assessments such as assessment of microclimatic impacts such as down draft.	A 'Wind Microclimate Modelling' document dated 11 th September 2020 was submitted with the application. It did not identify any significant adverse impact resulting from the proposed development. I consider the document to be acceptable.
Potential interaction of building, materials and lighting on flight lines in locations in proximity to sensitive bird/bat areas.	I have carried out AA screening in Section 14 and Appendix 4 of this IR and conclude that no significant potential interaction on flight lines is likely to occur. An Ecological Statement submitted with the application includes a number of statements referencing the poor habitat value on site for bats.
Assessment that the proposal allows for the retention of telecommunications channels, such as microwave links.	A telecommunications note dated 9 th September 2020 was submitted with the application. This did not identify any telecommunications channels that will be affected by the height and scale of the proposed development. I consider the document to be acceptable.

An assessment that the proposal maintains safe air navigation.	I do not consider this to be relevant given the proposed height, the site location in a built-up major town centre area, and the distances from Casement Aerodrome or Dublin Airport.
Relevant environmental assessment requirements, including SEA, EIA (schedule 7 information if required), AA and Ecological Impact Assessment, as appropriate.	I have carried out EIA screening in Section 12 and Appendices 2 and 3 and I have carried out AA screening in Section 14 and Appendix 4 of this IR.
The 'County Specific Criteria' subsection includes additional criteria for larger redevelopment sites with taller buildings. However, as the subject site only has a net site area of 0.33 hectares it cannot, in my view, be considered a larger redevelopment site.	

13.62. I acknowledge that the application is supported by a number of relevant documents prepared in the context of existing plans, guidance, and strategies in place at the time of the submission of the application. Notwithstanding the planning justifications contained within these, it is clear, in my opinion, that a development of increased height at this location is not supported by the DLRCDP 2022-2028. The application documentation makes numerous references to the Building Height Guidelines (2018) but the DLRCDP 2022-2028 was prepared and adopted with these Guidelines providing a significant basis for the Plan.

13.63. Appendix 5 (Building Height Strategy) states the appropriate vehicle for identifying areas where increased building height will be supported is, in so far as it relates to Dun Laoghaire, the County Development Plan. Appendix 17 specifically relates to Dun Laoghaire. Appendix 17 clearly states that: (i) the character of Dún Laoghaire Town Centre will be protected and intensification should be promoted primarily through compact urban form rather than taller buildings, (ii) a key objective is to protect the unique skyline, particularly for views from the ends of the East and West Pier, (iii) it is an objective that the existing hierarchical relationship between established landmark buildings and new infill development be preserved and maintained, and (iv) new

development should strive to be contextual, seek to re-establish streetscapes, and be appropriately scaled.

- 13.64. In my opinion, the provision of a 13 storey apartment building, which would be clearly visible in the skyline of the town and which does not have the support of any statutory plan, would be contrary to the explicit provisions of Appendix 17 and therefore would be fundamentally not acceptable at this location, regardless of how it may otherwise comply with performance standards, as set out in Table 13.2, above. It gives the impression of a proposed development, the design and scale of which was decided in advance with limited reference to the type and nature of surrounding development and the provisions of the DLRCDP 2016-2022, in particular appendix 12 (the UFP). The application's supporting documentation presents, in my opinion, as a post-design rationalisation of a fundamentally not acceptable proposal in terms of the height of Proposed Building 01.
- 13.65. Rather than recommend the omission of five storeys by condition, bringing Building 01 in general alignment with the adjoining Harbour View (and removing a floor from Building 02 also reducing it to eight storeys in height), I consider that the application should be refused on the basis of the building height. To make such a significant alteration would, in my opinion, represent a material change to the proposed development with potential impacts on, for example, density and open space requirements. I consider that a refusal of permission would be more appropriate.
- 13.66. In conclusion, I recommend permission be refused because the proposed building heights, in particular Building 01, does not comply with the provisions of the DLRCDP 2022-2028 in relation to building height and the proposed development cannot be supported in relation to this.

Overall Conclusion on Density and Building Height

- 13.67. The proposed density, at 313uph, significantly exceeds the general maximum density of 250uph envisaged in an urban neighbourhood such as this as set out in the Compact Settlement Guidelines (2024), and the proposed development does not meet the requirements for an exemption to this as per subsection 3.3.6 (a) of the Guidelines. In addition, the building height proposed would be contrary to the provisions of

subsection 17.6 of Appendix 17 to the DLRCDP 2022-2029. The combination of excessive density and building height would comprise overdevelopment of this site.

Site Layout, Design, and Impact on Existing and Future Residential Amenity

13.68. The vast majority of the submissions outline concerns about the impact on the future residential amenity of existing residents as a result of overlooking, overshadowing, and general nuisance as a result of the proposed development. I address the main issues raised in this subsection.

Site Layout

13.69. There are two buildings proposed, separated by ground level communal open space which also contains the three proposed car parking spaces. Concern has been raised in submissions in relation to the building line along Crofton Road. I do not share these concerns. In my opinion the building line satisfactorily responds to the more forward building line of the Harbour View/Harbour Square development to the east and the set back building line of the Charlemont Terrace protected structures to the west i.e. the proposed building line progressively sets back as it moves in a western direction. A small plaza area is provided towards Crofton Road and a café is proposed to animate the frontage in relative proximity to existing commercial units in Harbour Square.

13.70. Vehicular access is retained through the site to St. Michael's Hospital to the rear/south. A pedestrian link is also proposed along the eastern boundary. Concern has been raised about this in relation to its width. I consider that sufficient activity would be generated on site that this link would not unduly contribute to anti-social behaviour and it would be overlooked by a number of proposed apartments. There is potential for this pedestrian link to be extended further to the south through the hospital grounds and connect to the Eblana Avenue / Sussex Street area. This, however, is outside the scope of this application as it would traverse third party land. A compliance condition should be applied to any grant of permission to ensure that the existence of both the vehicular access and pedestrian link are sufficiently signposted as publicly accessible.

13.71. Overall, I consider the general site layout to be acceptable.

Design

- 13.72. Notwithstanding my comments about the proposed development in other subsections, taking the proposed development design in isolation and solely on its architectural merit, I have no concern with the proposed design. The changes in the heights of the proposed buildings, the expressed lintels, and the top floor area of proposed Building 01 provide visual interest, and the proposed external materials and extensive glazing result in a contemporary apartment development generally appropriate to an urban location. The provision of two separate blocks reduces the overall bulk and mass of the development, in contrast to the monolithic appearance of the adjoining eight storey Harbour View which is approximately 85 metres in length. However, for the reasons expressed elsewhere in this IR I do not consider the proposed development to be an appropriate design response to this particular site.
- 13.73. I note the proposed feature flagpole, for which no justification has been provided. The pole itself is fixed into the eighth floor communal open space on the southern elevation of Building 01, and it extends nearly 23 metres in height to breach the top of the building by over five metres. There is no indication as to which flag(s) is to be flown, what size the flag(s) would be, or on what occasion or how often it would be flown. I consider this to be an unnecessary feature which would, in my opinion, further impose proposed Building 01 on the skyline of the town at the expense of the existing and established landmark buildings and would be an obtrusive and incongruous feature. Should the Commission decide to grant permission for the proposed development, I recommend this flagpole be omitted by condition.

Overlooking

- 13.74. Overlooking impact is one of the main issues of concern raised in the submissions, relating to the potential for overlooking from above ground floor level apartments and communal spaces to the east (Harbour View) and west (Charlemont Terrace, Charlemont Terrace Mews, and Charlemont Avenue).
- 13.75. I do not consider that any overlooking would arise from ground level uses or spaces, in a northerly direction from proposed Building 01 (this would overlook Crofton Road), between proposed Buildings 01 and 02 given the approximate minimum 17 metres separation distance, or in a southerly direction from proposed Building 02 as this would

primarily overlook the car parking area associated with the hospital and with a separation distance of approximately 16 metres to the closest building on the hospital site (a large four storey structure).

13.76. Subsection 12.3.5.2 (Separation Between Blocks) of the DLRCDP 2022-2028 states that a minimum of approximately 22 metres is generally required between opposing windows in the case of apartments up to three storeys in height. In taller blocks, a greater separation distance may be prescribed. Notwithstanding, 'In certain instances, depending on orientation and location in built-up areas, reduced separation distances may be acceptable'. This implies that, in locations such as the subject site i.e. a town centre location in very close proximity to very good public transport infrastructure and where compact urban growth is promoted by the planning framework, separation distances may be ascertained on a case-by-case basis.

13.77. The provisions of SPPR 1 of the Compact Settlement Guidelines (2024) also relate. This reduces the required separation distances to 16 metres, which shall be maintained, unless there are no opposing windows serving habitable rooms and where suitable privacy measures have been designed into the scheme to prevent undue overlooking of habitable rooms and private amenity spaces. I note that one of the issues in Proposed Variation No. 1 of the DLRCDP 2022-2028 is the adoption of the provisions of SPPR 1. However, this does not currently form part of the adopted Plan.

13.78. Therefore, having regard to the previous two paragraphs, the DLRCDP 2022-2028 does not contain specific minimum separation distances because at a site location such as this distances of less than 22 metres could be considered acceptable. The Compact Settlement Guidelines (2024) require 16 metres separation unless suitable privacy measures prevent undue overlooking.

Proposed Building 01

13.79. The 'Proposed Site Plan' drawing illustrates separation distances between proposed Building 01 and Harbour View as approximately 10.7-10.8 metres²⁹. The area between the buildings would be primarily occupied by the vehicular access to the basement car park/private circulation space associated with Harbour View and the proposed pedestrian link along the eastern boundary of the subject site. Separation distances

²⁹ The 'Overall First Floor Plan' drawing shows a separation distance of 10205mm from the south east corner of proposed Building 01 as opposed to the 10811mm shown on the Proposed Site Plan.

are therefore significantly below the general standards set out in the DLRCDP 2022-2028 and the Compact Settlement Guidelines (2024).

13.80. At first to seventh floor levels the proposed elevation facing Harbour View contains two bedroom and two living area windows (in two apartments per floor) as well as the sides of balconies (except at first floor level in the apartment addressing Crofton Road) and fire escape stairs. Each window to the living area to the 'front' apartment on each floor i.e. seven apartment windows, have louvred windows. Page 47 of the SHD Design Appraisal states that 'Louvres are provided at windows to restrict viewing in a particular direction'. These louvred windows appear to have clear glazing³⁰. The window to the bedroom area to the 'front' apartment on each floor i.e. seven bedroom windows, have dual-angled windows. Page 47 states 'Windows are angled to avoid direct views towards neighbouring buildings'. The 'north' facing angles appear to have clear glazing whereas the 'south' facing angles appear to have translucent glazing. For the 'rear' apartments at first to seventh floor levels on proposed Building 01 which face Harbour View the bedroom window again has two faces. The very narrow north facing area appears to have clear glazing whereas the main east facing area is fully translucent. The combined window/side balcony serving the living/balcony areas have a combined louvre. The balconies of the seven 'rear' apartments would have more oblique views of Harbour View, though at greater distances of approximately 20 metres minimum. At eighth floor level the apartments to the 'rear' of the building are discontinued and a communal roof terrace is proposed. From the eighth to eleventh floors one apartment to the 'front' of proposed Building 01 would face Harbour View, albeit at oblique downward angles. The louvre and dual-angle window features are omitted at these levels and these windows are standard, clear glazing. An enclosed glazed amenity space is proposed at twelfth floor levels. The fire escape stairs also reach to this level.

13.81. The western building line of proposed Building 01 would be much closer to Charlemont Terrace than the eastern building line would be to Harbour View. There would be a separation distance of approximately three metres. There are eight above ground floor windows of varying shapes and sizes on the side elevation of No. 6 Charlemont

³⁰ Based on the application it is difficult to be specific about the exact type of glazing proposed. My assumptions are based on the 'Building 01 & 02 – East and West Elevation' drawing and the SHD Design Appraisal, in particular figures 38 and 53.

Terrace overlooking the subject site, on both the main structure and the set-back annex. The separation distance between proposed Building 01 and the closest Charlemont Terrace Mews structure to the south west would be approximately 22 metres, and approximately 45 metres to the nearest Charlemont Avenue structure.

13.82. Notwithstanding the three metres separation distance, there would be no proposed windows directly affecting No. 6. The front/northern building line of the proposed area adjacent to No. 6 would match the building line established by Charlemont Terrace itself and the footprint of proposed Building 01 in this area is similar in length to No. 6. Proposed Building 01 has no windows on the first four storeys on the western elevation and only one on the fifth, in apartment B1_04.01, at the north west corner, which would primarily overlook the vehicular circulation area to the front of Charlemont Terrace³¹. The area of Proposed Building 01 close to Charlemont Terrace is five storeys in height and there is a communal open space area at fifth floor level. There are three fifth floor west elevation habitable windows serving apartments B1_05.01 and B1_05.07, though the communal space would block any view of private spaces to the west. From sixth to twelfth floors the separation distance to the western site boundary would be a minimum of approximately 26 metres. No windows or balconies on the western part of the south elevation of proposed Building 01 are angled towards the private open space areas of Charlemont Terrace or Charlemont Terrace Mews.

13.83. Having regard to the foregoing, the necessity for louvres, dual-angle windows, and translucent glazing for 14 first to seventh storey eastern elevation apartments is indicative of a proposed development that is in close proximity to an existing development. However, I consider that these features would satisfactorily address the potential for undue overlooking to Harbour View. While there would be a slightly reduced standard of residential amenity for future residents, I note that the living areas would retain 'normal' glazing to the north, from the 'front' apartments, and the south, from the 'rear' apartments, respectively.

13.84. There are two communal roof areas proposed, on the fifth and eighth floors. While I have no objection to either of these in principle, the degree of potential overlooking is unclear. For the fifth floor area I would have no issue with access being available up to the edge of the northern rail as this area is the primary view over Dublin Bay and

³¹ However, should permission be granted I recommend the omission of this narrow window as it may unduly overlook a main window on the side elevation of No. 6.

there would be no overlooking of private areas. Elsewhere, undue overlooking may arise to the rear of No. 6 Charlemont Terrace in particular, so should permission be granted I recommend a revised design solution be required in the south west area of the fifth floor amenity space to address this e.g. higher solid barrier to prevent overlooking or the railing set back further into the space increasing the inaccessible area and reducing the viewing angle. Similarly, for the eighth floor space I have no issue with overlooking in a western or southerly direction. However, access appears to be available to the edge of the eastern area which may, in my opinion, result in undue adverse impact on Harbour View. A similar design feature to those previously referenced would mitigate this issue in my opinion. As regards noise issues that may arise from these areas, I am satisfied that this can be satisfactorily addressed by site management by way of, for example, time-controlled access. Residents of apartments in the proposed BTR development would be equally as affected as adjacent properties, if not more so, by unwelcome noise from proposed communal areas. Public access, on occasion, to the top floor area has been mooted by the applicant. This may be a concession to encourage a grant of permission by allowing public access to this area. However, should permission be granted I would recommend the exclusion of this possibility in the interest of residential amenity.

Proposed Building 02

- 13.85. Proposed Building 02 is slightly further from Harbour View than proposed Building 01, at approximately 12 metres. The area between the buildings would be primarily occupied by the private circulation space associated with Harbour View and the proposed pedestrian link along the eastern boundary of the subject site. As with proposed Building 01, separation distances are significantly below the general standards set out in the DLRCDP 2022-2028 and the Compact Settlement Guidelines (2024).
- 13.86. At first to eighth floor levels the proposed elevation facing Harbour View contains 24 windows (three per floor) serving 15 one-bedroom apartments. Each of the 24 windows are fitted with louvres. The living area of each apartment is affected. However, each living area also has a north or south facing glazed area and balcony so the louvred windows are not the only opening to the living area. There are 16

balconies along this elevation³² and, should the Commission decide to grant permission, I recommend a condition is attached to increase the heights of the eastern side of each barrier from approximately 1 metre in height to 1.8 metres in height, in the interest of the residential amenity of Harbour View apartments.

13.87. There is a minimum separation distance of approximately 11 metres from proposed Building 02 to the western site boundary upon which is constructed a two-storey house at the end of Charlemont Terrace Mews (No. 6). This house has a number of rear elevation rooflights. There are 35 windows at first to seventh floors on this proposed elevation, five windows per floor. Four windows per floor serve habitable areas of apartments while the central window on each floor does not serve any apartment. Although the separation distance from proposed Building 02 to the western boundary is similar to that from proposed Building 02 to Harbour View, the separation distance to the west is provided entirely within the subject site and there is a significantly lesser scale of development in this direction. Proposed Building 02 would be a similar distance (approximately 12 metres) to the closest common boundary with No. 1 Charlemont Avenue with approximately 19 metres in terms of distance between structures. In the context of the site's town centre location, and notwithstanding that houses on Charlemont Terrace Mews and Charlemont Avenue are zoned 'Objective A'³³, I consider that no undue overlooking would arise such that permission should be refused or alterations required.

13.88. At eighth floor level there is communal open space proposed at the western area. The separation from this area to No. 6 Charlemont Terrace Mews, if the building mass itself does not block views, as measured from the 'Building 02 – North and South Elevation' drawing is in excess of 22 metres.

Conclusion

13.89. Given the wording of both the DLRCDP 2022-2028 and the Compact Settlement Guidelines (2024), the town centre location, the proximity to public transport infrastructure, and the architectural features proposed on the eastern elevation of proposed Buildings 01 and 02, I consider that a reduction in the normal 22 metres / 16

³² i.e. the 15 apartments referred to at the top of the paragraph plus an additional balcony at eighth floor level serving the bedroom of B2_08.03 which does not have any windows on the eastern elevation.

³³ Objective A has a zoning objective 'To provide residential development and improve residential amenity while protecting the existing residential amenities'.

metres separation distance is acceptable in this instance. Notwithstanding, should the Commission decide to grant permission, further to Footnote 30 I recommend that a compliance condition be required for specific detail of the proposed glazing and other architectural features of this elevation, in the interest of clarity.

Shadowing Impact

13.90. This is separately addressed in paragraphs 13.107-13.161 (Daylight and Sunlight) of this Planning Assessment.

Public, Communal, and Private Open Space

13.91. The various types of open space are standard issues to consider in a proposed residential development.

Public open space

13.92. Table 12.8 (Public Open Space Requirements for residential developments) of the DLRCDP 2022-2028 requires a minimum 15% public open space for residential development in the existing built up area. It is stated that 681sqm public open space is provided on site (figure 65 of the SHD Design Appraisal), in the form of the plaza area adjoining Crofton Road and the proposed pedestrian link along the eastern site boundary. This is approximately 20.6% of the net site area of 0.33 hectares. The SHD Design Appraisal states that these public spaces 'are clearly identifiable as such and are open to all for access' (page 12).

13.93. The DLR Chief Executive's Report is based on the DLRCDP 2016-2022 which required an open space per resident figure, whereas the current DLRCDP 2022-2028 has the flat minimum 15% requirement. The public open space is referred to, in the Parks Department report, as narrow linear strips that are generally not useable in any meaningful way.

13.94. The small plaza area would contribute to activity along the roadside, accommodating seating areas (as shown on the 'Landscape Plan' drawing), and the proposed pedestrian link would provide a link between the Crofton Road and Eblana Avenue / Sussex Street area (though full permeability is dependent on third party land). Though predominantly hard standing in nature I consider this would be reflective of the urban

location of the site and larger grassed/soft landscaped areas would not be suitable for public open space given the building footprints and requirement to achieve an appropriate density.

- 13.95. I consider the public open space provision to be acceptable in this case in terms of quantity and quality.

Communal open space

- 13.96. Calculated from table 12.9 (Communal Open Space Standards) of the DLRCDP 2022-2028, the proposed development would require 554sqm communal open space³⁴. A total of 765sqm has been provided, as per page 45 of the SHD Design Appraisal, in the form of the 378sqm courtyard, the three external communal areas on proposed Building 01 (265sqm), and the 122sqm communal space on the eighth floor of proposed Building 02.
- 13.97. The Parks Department report for the DLR Chief Executive's Report sets out concerns relating to the useability of communal roof areas, shadowing of the courtyard area, and absence of any play provision for children. While I acknowledge these concerns, and the absence of any sunlight/shadowing detail for the ground level communal open space is referenced in the Daylight and Sunlight subsection, in my view the proposed development provides a significant excess of communal open space, it provides it in a variety of locations, approximately half of it is at ground level, and there is very high quality public open space in the area such as the East and West Piers. The proposed BTR development, given that the vast majority of apartments are one-bed units, is clearly not directed at families, though should the Commission be minded to grant permission the provision of a play area could be conditioned.
- 13.98. Notwithstanding the foregoing, subsection 12.8.5.4 (Roof Gardens) of the DLRCDP 2022-2028 states that 'For larger apartment schemes in excess of 50 units no more than 30% of the communal open space shall be provided by way of a roof garden'. This was not a requirement of the DLRCDP 2016-2022. In this case 378sqm communal open space has been provided by way of roof gardens and terrace. This comprises approx. 49.4% of the overall communal open space and this would therefore comprise a material contravention of the DLRCDP 2022-2028. By excluding

³⁴ 80 1-bed apartments x 5sqm (400sqm) + 22 2-bed apartments x 7sqm (154sqm) = 544sqm.

from the calculation the 58sqm roof terrace on the top floor of proposed Building 01, the three roof garden areas i.e. Floors 5 and 8 on proposed Building 01 and Floor 8 on proposed Building 02 (329sqm), would still comprise 43% of the communal open space provision.

- 13.99. Therefore, although the communal open space provision is significantly in excess of the minimum area required, it does not comply with the specific requirements of the DLRCDP 2022-2028 and to grant permission would, in my opinion, comprise a material contravention of the Plan in this regard. This requirement was not contained within the DLRCDP 2016-2022 under which the application was made.

Private open space

- 13.100. Private open space has been previously addressed in paragraphs 13.20-13.21 in relation to its potential for material contravention of the DLRCDP 2022-2028. I concluded that a material contravention would arise in relation to the 15 apartments which have no private open space provision in the form of balconies or winter gardens. The other proposed apartments meet the Plan requirements for private open space as set out in Table 12.11 of the Plan.

Car and Bicycle Parking

Car parking

- 13.101. Three car parking spaces are proposed. I address car parking in detail in paragraphs 13.180-13.196 and I conclude that the proposed level of car parking provision is acceptable in this case.

Bicycle parking

- 13.102. Table 13.3 – Proposed Bicycle Parking

Proposed Development	Bicycle parking standards under DLRCDP 2022-2028	Bicycle parking standards under Compact Settlement Guidelines (2024)	Proposed
102 apartments	1 per apartment (102) and 1 visitor space per 5	1 space per bedroom (124) plus undefined provision for visitors i.e. minimum of 124+	150 + 26

	apartments (20) i.e. 122 spaces		
Café	Minimum 2 spaces and minimum 2 staff spaces	None cited	8 public spaces

13.103. I consider that the proposed bicycle parking provision is acceptable, notwithstanding that all resident bicycle spaces are located within Proposed Building 02. This also includes a small bicycle repair area in a 248sqm space.

Construction Nuisance

13.104. A number of the submissions from local residents reference the construction nuisance that would arise as a result of the proposed development, such as noise and dust.

13.105. I acknowledge that the subject site is surrounded on three sides by residential development, the hospital, and some limited commercial activity and that construction activity would have a significant impact on these properties. However, the site is an underdeveloped brownfield site and there is an obligation to ensure any development on site achieves appropriate densities and building heights, in particular noting its proximity to very good public transport infrastructure and its town centre zoning. Standard conditions can be applied in the event of grant of permission relating to, for example, working hours and the submission of a Construction Management Plan which would reduce the nuisance as much as reasonably possible.

13.106. Although conditions can be applied to reduce impacts, a degree of construction nuisance is inevitable with any significant works on a site such as this.

Daylight and Sunlight

13.107. The impact of the proposed development on existing daylight and sunlight access of adjoining properties, particularly Harbour View, is a significant recurring issue raised in the third party submissions.

13.108. Notwithstanding the proposed heights of Buildings 01 and 02 I note that the layout and design of the Harbour View building make it particularly vulnerable to being affected

in this manner by any substantial development on the subject site. The building is relatively close to the site boundary, it is approximately 85 metres long on its western elevation with no breaks to allow additional light. In addition, there are multiple balconies set into the façade pushing the internal habitable areas into the body of the building and reducing their daylight and sunlight access without any development of the subject site.

13.109. I draw the Commission's attention to the provisions of paragraph 1.6 of the BRE publication BR 209 (2022) (Third Edition)³⁵. This states 'The advice given here is not mandatory and the guide should not be seen as an instrument of planning policy; its aim is to help rather than constrain the designer. Although it gives numerical guidelines, these should be interpreted flexibly since natural lighting is only one of many factors in site layout design ... ' Paragraph 1.6 of BR 209 (2011) (Second Edition) says the same thing. In this regard I note that policy objective PHP18 of the DLRCDP 2022-2028 states that it is a policy objective to 'Increase housing (houses and apartments) supply and promote compact urban growth through the consolidation and re-intensification of infill/brownfield sites having regard to proximity and accessibility considerations ... Encourage higher residential densities provided that proposals provide for high quality design and ensure a balance between the protection of existing residential amenities and the established character of the surrounding area, with the need to provide for high quality sustainable residential development'.

Applicant's Supporting Documentation

13.110. The application is accompanied by two daylight and sunlight reports.

'Daylight and sunlight report' (DSR)

13.111. The 'Daylight and sunlight report' (DSR) dated 10th December 2020 determines the daylight, sunlight, and overshadowing effects of the proposed development to existing surrounding buildings. The calculations were undertaken in accordance with the BRE Guide (2011)³⁶ and BS 8206-2:2008³⁷. It notes that 'The existing urban site comprises a surface carpark which currently contains no substantial structures. This therefore leads to some artificially elevated levels of daylight and sunlight amenity at the

³⁵ 'Site layout planning for daylight and sunlight; A guide to good practice'

³⁶ BRE 'Site Layout Planning for Daylight and Sunlight: a guide to good practice' (BR209 – 2nd Edition 2011).

³⁷ BS 8206-2:2008 'Lighting for buildings - Code of practice for daylighting' (2008).

neighbouring properties, as they receive light across the boundaries of the site without obstruction. This is not considered to be a typical reflection of an urban situation at an infill site such as this' (paragraph 1.2.3). I consider that this is a reasonable point to make.

13.112. The DSR includes both 'mirror image' (in relation to Harbour View) and 'alternative baseline' (based on a hypothetical DL RCC urban framework massing and taking all of the surrounding properties into account³⁸) studies, as provided for in Appendix F of the BRE Guidelines.

13.113. Of 271 windows assessed at surrounding properties, only 114 (42%) currently achieve the BRE target of 27% vertical sky component (VSC)³⁹. 'It should therefore be taken into account that the majority of windows surrounding the site do not currently achieve the BRE's target values, despite them overlooking a surface car park' (paragraph 1.3.3). The shortfall is mainly as a result of the design of Harbour View apartments and, 'for those that do meet the BRE's numerical values in the existing condition, the flat site creates an artificial baseline for the surrounding properties, allowing them to receive levels of daylight and sunlight that would not usually be achievable in urban areas such as this. Therefore, when reviewing the results for the existing vs proposed assessment, the nature of the site and the inflated levels of light currently experienced should be borne in mind' (paragraph 1.3.5).

13.114. Subsection 1.4 summarises the other baselines considered. For the mirror image, 43 of 209 windows (21%) would achieve the BRE VSC target. Against this mirror image baseline the results for the actual proposed development shows that 124 windows (59%) within Harbour View would achieve the same or better VCS results. 87% of the rooms in Harbour View achieve the same or better daylight distribution (DD)⁴⁰ with the proposed development when compared to the mirror image because of the gaps in the proposed development. In the alternative baseline (hypothetical DL RCC Framework massing), 78 (29%) of the 271 windows assessed would achieve BRE recommended levels of daylight. Against this alternative baseline the results for the

³⁸ This alternative baseline was developed from the sketch on page 6 of Appendix 12 (Dún Laoghaire Urban Framework Plan) of the DL RCCDP 2016-2022.

³⁹ VSC is '(A) measure of the available skylight at the centre point of a window ... purely based on external obstructions' (paragraph 1.3.1).

⁴⁰ DD 'measures the various points within a room which can see the sky at the working plane height (0.85m above the floor) ... (it) offers a view of the overall daylighting capabilities of a room, rather than just those noted on the face of the window' (paragraph 1.3.2).

actual proposed development shows that 179 windows (66%) within the surrounding buildings would achieve the same or better VSC results. 92% of the rooms in the surrounding properties achieve the same or better DD with the proposed development compared to the alternative baseline.

13.115. In terms of overshadowing on 11 existing amenity areas, three fall 'marginally short' of recommended values (paragraph 1.4.29) on March 21st, but all pass on June 21st. Annual probable sunlight hours (APSH) are also considered.

13.116. An assessment of the effects of the proposed development on existing surrounding buildings is contained in subsection 5.

'Internal daylight and sunlight report' (IDSR)

13.117. The 'Internal daylight and sunlight report' (IDSR) dated 11th December 2020 determines whether the proposed development will receive sufficient levels of daylight and sunlight amenity. The calculations were undertaken in accordance with the same guidelines as the DSR.

13.118. In terms of internal daylight it is stated that 198 of the proposed 223 rooms (89%) will meet the BRE's average daylight factor (ADF) numerical values and 188 (84%) will meet the values for DD. For internal sunlight, 35 of 63 main living rooms with windows oriented within 90 degrees of due south will receive levels of sunlight in line with BRE numerical values, with a reasonable proportion of others (14 out of 28 and 11 out of 28 respectively) receiving 'reasonable' levels of APSH and winter probable sunlight hours (WPSH). A number of main living rooms face north; 'with the Dun Laoghaire Harbour located to the north of the proposed development, it is logical to align a number of the dwellings with this appealing view' (paragraph 1.3.8). I agree with this justification and the view obtained would, in my opinion, be more than adequate compensation for the lack of sunlight. The fifth and eighth floor communal spaces are considered to be 'two well sunlit external amenity spaces' (paragraph 1.3.11).

Submissions

13.119. While the main relevant issues raised in the third party submissions are collectively summarised in section 8 under the subheading 'Impact on existing residential amenity', I draw the Commission's attention to the submission received from Stephanie Bourke and, in particular, to appendix 2 of the submission.

13.120. This appendix comprises a review of the daylight reports submitted as part of the application. Among the comments and observations made are:

- The inclusion of three sets of results and the presentation of same within the main body of the report make the report difficult for a non-expert to follow.
- The results which support positive conclusions are incorrect.
- Appendix F of the BRE Guidelines should not be regarded as an instruction to be followed, for example in a circumstance where An Bord Pleanála previously considered that the Harbour View development was appropriate⁴¹. Regardless, reduced regard should still be paid to findings reached in the alternative assessments, given the significant errors made in the supporting calculations.
- Generating alternative targets with reference to an indicative notional massing which has no planning permission is not explicitly provided for in Appendix F. In addition, there is no evidence to support the DSR that a seven/eight storey structure was envisaged on the site by the planning authority and it is reasonable to assume a significant setback would be required.
- Principal regard should be paid to the results of the conventional impact testing. 36 rooms within Harbour View would find it impossible to achieve reasonable daylighting as opposed to one window in the current baseline scenario.
- There are questions regarding the validity of the ADF results reported in the IDSR. It is reasonable to propose that these overestimate the ADF levels. In addition, the methods used for calculation have not been explained.
- Given the omission of north facing living room windows from sunlight assessment the compliance rates presented do not fairly represent the overall rate.
- Only two of five communal open spaces have been assessed.

Chief Executive's Report

13.121. The Architect's Department report prepared for the Chief Executive's Report makes no reference to daylight and sunlight. There are 22 subheadings in section 11

⁴¹ ABP Reg. Ref. PL 06D.204047 granted in 2003.

(Planning Assessment) of the Chief Executive's Report, however none of these are specifically daylight and sunlight.

13.122. Daylight and sunlight are addressed in subsection 11.4 (Building Height and Scale), on pages 57- 58. The report states that the planning authority has 'serious concerns that the residential amenity' of both adjoining property and future residents 'will be unreasonably compromised in terms of loss of daylight and overshadowing'. They are also referenced in subsection 11.6 (Residential Amenities). Towards Harbour View, 'The extent of additional overshadowing and degree of daylight loss to individual apartments that will result ... it not [sic] considered acceptable in this instance' (page 64). To the west, 'The extent of additional overshadowing and degree of daylight loss to adjoining property that will result ... it not [sic] considered acceptable in this instance' (pages 65/66). Concern is expressed about the ground level communal amenity space and it is considered this area 'will be significantly overshadowed limiting its usability' (page 75). In the conclusion of the Report, it is stated that the proposed development would significantly compromise the residential amenity of property in the vicinity for reasons including overshadowing.

13.123. The planning authority's first recommended reason for refusal includes that the proposed development would seriously injure the residential amenities of properties in the area for reasons including overshadowing.

Relevant Documentation

13.124. There are a number of different documents which relate to daylight and sunlight and these are set out in this subsection. The application was submitted under the DLRCDP 2016-2022; however this has been replaced by the DLRCDP 2022-2028 which is the Plan under which the application is to be decided.

Dun Laoghaire Rathdown County Development Plan (DLRCDP) 2022-2028

13.125. Subsection 12.3.1.1 (Design Criteria) of the Plan states that it is an objective of the planning authority to achieve high standards of design and layout to create liveable neighbourhoods. A number of criteria will be taken into account when assessing applications, including consideration of sunlight/daylight standards and quantitative standards set out in chapter 12 (Development Management) and/or referenced in Government guidelines. Other relevant references in the Plan to daylight/sunlight are:

- 'All habitable rooms within new residential units shall have access to appropriate levels of natural/daylight and ventilation. Development shall be guided by the principles of Site Layout Planning for Daylight and Sunlight, A guide to good practice (Building Research Establishment Report, 2011) and/or any updated, or subsequent guidance, in this regard ... The impact of any development on existing habitable rooms should also be considered' (subsection 12.3.4.2 (Habitable Rooms)).
- 'Designers must ensure that the heights and orientation of adjoining blocks permit adequate levels of sunlight to reach communal amenity space throughout the year in accordance with BRE 209 'Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice', (2011)' (subsection 12.8.5.3 (Communal Open Space – Quality)).
- Subsection 12.8.5.4 (Roof Gardens) states that roof gardens will be considered subject to a daylight and sunlight assessment, among other things.
- Subsection 12.8.7.1 (Separation Distances) states 'In all instances, private open space should not be unduly overshadowed and where there is the potential for the proposed development to overshadow or overlook existing/future development adjoining the site, minimum separation distances to boundaries should be increased'.
- Page 5 of Appendix 5 (Building Height Strategy) reproduces relevant parts of the Building Height Guidelines (2018) which are set out in paragraph 13.126, below.
- Table 5.1 of Appendix 5 outlines criteria for assessing proposals for increased height, including that the proposed design should maximise access to natural daylight and minimise overshadowing.
- Section 6 (Landmark Buildings) of Appendix 5 states that any application for a landmark building must include, among other things, an impact assessment study to illustrate the impact on the context. This should be done through, for example, 'The microclimate impact of the development on the surrounding environment (streets, public spaces and existing development) should be tested with regard to ... overshadowing and sun-reflection. This should be done through the testing of

accurate physical and three-dimensional computer models, conducting ... sun-path studies, as well as using other suitable impact simulation methods’.

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

13.126. The Building Height Guidelines (2018) are referenced in the application’s DSR and IDSR and they remain applicable to the proposed development. SPPR 3 / paragraph 3.2 (Development Management Criteria) relates to assessing planning applications for increased building heights. The applicant is required to demonstrate, at the scale of the site/building, that the proposed development satisfies the following criteria:

- The form, massing and height of proposed developments should be carefully modulated so as to maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light.
- Appropriate and reasonable regard should be taken of quantitative performance approaches to daylight provision outlined in guides like the Building Research Establishment’s ‘Site Layout Planning for Daylight and Sunlight’ (2nd edition) or BS 8206-2: 2008 – ‘Lighting for Buildings – Part 2: Code of Practice for Daylighting’.
- Where a proposal may not be able to fully meet all the requirements of the daylight provisions above, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, in respect of which the planning authority or An Bord Pleanála should apply their discretion, having regard to local factors including specific site constraints and the balancing of that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and or an effective urban design and streetscape solution’.

Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2020)

13.127. As has been set out previously, the 2020 version of the Apartment Guidelines remain the applicable iteration for SHD applications, notwithstanding that subsequent updates have been introduced. The application was made with these guidelines in place.

- Paragraph 4.11 states ‘Designers must ensure that the heights and orientation of adjoining blocks permit adequate levels of sunlight to reach communal amenity space throughout the year’.
- Paragraphs 6.5-6.7 state ‘The provision of acceptable levels of natural light in new apartment developments is an important planning consideration ... planning authorities must however weigh up the overall quality of the design and layout of the scheme and the measures proposed to maximise daylight provision with the location of the site and the need to ensure an appropriate scale of urban residential development. Planning authorities should have regard to quantitative performance approaches to daylight provision outlined in guides like the BRE guide ‘Site Layout Planning for Daylight and Sunlight’ (2nd edition) or BS 8206-2: 2008 – ‘Lighting for Buildings – Part 2: Code of Practice for Daylighting’ when undertaken by development proposers which offer the capability to satisfy minimum standards of daylight provision. Where an applicant cannot fully meet all of the requirements of the daylight provisions above, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, which planning authorities should apply their discretion in accepting taking account of its assessment of specific. [sic] This may arise due to a design constraints associated with the site or location and the balancing of that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and or an effective urban design and streetscape solution’.

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

13.128. Daylight is considered in subsection 5.3.7 of the Guidelines. This subsection states,

‘The provision of acceptable levels of daylight in new residential developments is an important planning consideration, in the interests of ensuring a high quality living environment for future residents. It is also important to safeguard against a detrimental impact on the amenity of other sensitive occupiers of adjacent properties.

(a) The potential for poor daylight performance in a proposed development or for a material impact on neighbouring properties will generally arise in cases where the

buildings are close together, where higher buildings are involved, or where there are other obstructions to daylight ...

(b) In cases where a technical assessment of daylight performance is considered by the planning authority to be necessary regard should be had to quantitative performance approaches to daylight provision outlined in guides like A New European Standard for Daylighting in Buildings IS EN17037:2018, UK National Annex BS EN17037:2019 and the associated BRE Guide 209 2022 Edition (June 2022), or any relevant future standards or guidance specific to the Irish context.

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

Assessment

13.129. I note initially that the application’s DSR and IDSR, the third party submissions, and the DLR Chief Executive’s Report were all prepared in late 2020 and early 2021. At that time the DLRCDP 2016-2022 was the Plan in place. This has now been replaced by the DLRCDP 2022-2028.

13.130. Notwithstanding, the varying requirements of the different relevant documents can be summarised as follows:

- DLRCDP 2022-2028 – Subsection 12.3.4.2 of the Plan requires that impact to habitable rooms be guided by the principles of BR 209 (2011) (Second Edition) or any updated or subsequent guidance i.e. BR 209 (2022) (Third Edition). Notwithstanding, subsection 12.8.5.3, in reference to communal amenity spaces, cites BR 209 (2011), which is what the applicant has used (albeit only including two of the amenity spaces).

- Building Height Guidelines (2018) – The Guidelines state that ‘Appropriate and reasonable regard should be taken of quantitative performance approaches to daylight provision outlined in guides like’ BR 209 (2011) or BS 8206-2: 2008. Both the DSR and IDSR state that daylight and sunlight calculations have been undertaken in accordance with these two documents.
- Apartment Guidelines (2020) – The Guidelines state that planning authorities should have regard to quantitative performance approaches to daylight provision outlined in guides like BR 209 (2011) or BS 8206-2: 2008. As above, both the DSR and IDSR state calculations have been undertaken in accordance with these two documents.
- Compact Settlement Guidelines (2024) – The Guidelines state that regard should be had to guides ‘like’ BR 209 (2022), among other documents. In my view it is reasonable to consider that BR 209 (2022) is ‘like’ BR 209 (2011) which is the document that the application’s DSR and IDSR were prepared under. It is a solid basis for the application and can be relied on. As such I do not consider that the application documentation materially deviates from that which would be required under the Compact Settlement Guidelines (2024).

13.131. Further to these bullet points, in my opinion, the DSR and IDSR submitted with the application are consistent with the relevant provisions of the Building Height Guidelines (2018), the Apartment Guidelines (2020), and the Compact Settlement Guidelines (2024). However, I do not consider them to be consistent, in terms of impact to existing and proposed habitable rooms, with the DLRCDP 2022-2028 given that BR 209 (2022) (Third Edition) was not used. However, this is guidance and I do not consider it to be a material contravention issue. Differences between the 2011 and 2022 versions of BR 209 includes the change of assessment metric for internal daylight within buildings from ADF to illuminance lux levels.

13.132. Notwithstanding, based on the information submitted, the following paragraphs and tables identify where target values are not being met, based on the DSR and IDSR.

Interrogation of the Daylight and Sunlight Report (DSR)

Daylight

Table 13.4 – Existing VSC Status for Properties in the Vicinity based on the Undeveloped Site (27% is a Pass)⁴²

Windows	Pass	Fail	Commentary
271 (15 in 5 Charlemont Terrace, 10 in 5 Charlemont Terrace Mews, three in 6 Charlemont Terrace Mews, six in 1 Charlemont Avenue, 209 in Harbour View, and 28 in St. Michael's Hospital	114 (42%)	157 (58%)	42% of windows tested have a VSC of <27% even without the proposed development in place. 5 Charlemont Terrace, 5 and 6 Charlemont Terrace Mews, and 1 Charlemont Avenue all have windows which both pass and fail. There are between one and six windows per apartment in Harbour View. All 14 ground floor Harbour View windows have existing values <27%. At first floor six pass and 24 fail. At each floor between the second and seventh floors there are 28 windows per floor; nine pass and 19 fail. On the eighth/top floor 19 pass and six fail. In total, of 209 Harbour View windows, 70 pass (33.5%) and 139 (66.6%) fail the VSC test in the existing scenario. All 28 hospital windows pass.

⁴² Page 37 of the DSR states that the target figure for VSC as per the BRE is 27%, which is a 'relatively good level of daylight'. The maximum percentage value for a window is 40%.

Table 13.5 – Proposed VSC Status for Properties in the Vicinity based on the Proposed Development (either 27% or < 0.8 times former value is a Pass)

Windows	Pass	Fail	Commentary
271 (15 in 5 Charlemont Terrace, 10 in 5 Charlemont Terrace Mews, three in 6 Charlemont Terrace Mews, six in 1 Charlemont Avenue, 209 in Harbour View, and 28 in St. Michael's Hospital	98 (36%)	173 (64%)	64% of windows would not achieve a VSC of at least 27% or at least 0.8 times its former value. This is a 6% increase from the 58% which does not achieve the standard VSC in the first place. 5 Charlemont Terrace, 5 and 6 Charlemont Terrace Mews, and 1 Charlemont Avenue all have windows which both pass and fail. All 14 ground floor Harbour View windows would fail the VSC test. Although they already have a VSC of <27% their former value would fall by between 0.20 and 0.54. On the first to sixth floors the vast majority of windows, 139 out of 170 (82%), fail the VSC test. Some values fall to as low as 0.09 of their former value (both Flats 9 and 24, Flat 24 being on top of Flat 9 towards the north of Harbour View, in apartments with five windows where none of them passed the VSC test). On the seventh/top floor 22 out of the 25 windows pass the VSC test. In total, of 209 Harbour View windows, 53 pass (25.4%) and 156 (74.6%) fail the VSC test in the proposed scenario. I have calculated the average 'Times Former Value' per floor of Harbour View as follows:

			Ground floor – 0.34 Times Former Value First Floor – 0.4 Times Former Value Second Floor – 0.4125 Times Former Value Third Floor – 0.445 Times Former Value Fourth Floor – 0.48 Times Former Value Fifth Floor – 0.55 Times Former Value Sixth Floor – 0.65 Times Former Value Seventh Floor – 0.869 Times Former Value As would be expected the greatest impact occurs in the lower floors and gradually increases to the upper floors. The figures provide an indication as to the average performance of windows on each floor though it must be noted that there are significant fluctuations on each floor e.g. one window in Flat 8 on the first floor would have an increase of 1.01, presumably as a result of the removal of the two-story structure to be demolished, whereas another window in the same flat would suffer a 'Times Former Value' of 0.15. Seven of the 28 windows in the hospital would incur a failure of the VSC test, five at ground floor and two at first floor levels. However, the worst 'Times Former Value' would be 0.61.
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13.133. A 'Daylight Distribution Analysis'⁴³ is also provided in Appendix D to the DSR. Various rooms (183 bedrooms, living/dining, and 'unknown') are identified in 5 Charlemont Terrace, 5 and 6 Charlemont Terrace Mews, 1 Charlemont Avenue, Harbour View, and St. Michael's Hospital. The rooms are identified as to whether they pass or fail i.e. if the area beyond the NSL increases by more than 20%.

Table 13.6 – Daylight Distribution Analysis

Location and number of rooms	Pass	Fail	Lowest 'Times Former Value'
5 Charlemont Terrace (6)	6 (100%)	0 (0%)	0.94
5 Charlemont Terrace Mews (3)	3 (100%)	0 (0%)	0.91
6 Charlemont Terrace Mews (1)	1 (100%)	0 (0%)	0.81
1 Charlemont Avenue (5)	4 (80%)	1 (20%)	0.72
Harbour View (156)	117 (75%)	39 (25%)	Ground Floor – 0.82 (all passed) First Floor – 0.29 (Flat 9 as per table 13.5) Second Floor – 0.36 (Flat 24 as per table 13.5) Third Floor – 0.42 Fourth Floor – 0.44 Fifth Floor – 0.44 Sixth Floor – 0.65 Seventh Floor – 1 (all passed)

⁴³ Footnote 40 refers. In addition, Appendix A of the DSR states 'For existing buildings ... if, following the construction of a new development, the NSL [no-sky line] moves so that the area beyond the NSL increases by more than 20%, then daylighting is likely to be seriously affected'.

St. Michael's Hospital (12)	10 (83.33%)	2 (16.66%)	0.77
Overall (183)	141 (77%)	42 (23%)	0.29

Sunlight

13.134. A 'Sunlight Study' is provided as Appendix E to the DSR. It includes both APSH and WPSH. Appendix A to the DSR states that compliance will be demonstrated where a room receives 'At least 25% of the APSH (including at least 5% in the winter months), or at least 0.8 times its former sunlight hours during either period, or a reduction of no more than 4% APSH over the year'.

13.135. The sunlight study assesses a reduced number of windows: 13 (as opposed to 10 in the VSC assessment) in 5 Charlemont Terrace, seven (as opposed to 10) in 5 Charlemont Terrace Mews, and two (as opposed to three) in 6 Charlemont Terrace Mews. It appears that the omitted windows are in locations where there is no sunlight possible or where it would not be affected by the proposed development. Six windows, as with the VSC assessment, are proposed for 1 Charlemont Avenue. Only 14 windows in 14 apartments are assessed in Harbour View and one window on each floor of the hospital building (four in total). This is 46 in total.

13.136. Of the 14 Harbour View apartments there are none on the ground floor and only one (Flat 19 on the first floor) is in the southern area of the building. The other 13 flats assessed are all in the northern end of Harbour View. Although the northern area of Harbour View is likely to be most adversely impacted by development on the subject site in terms of sunlight, I consider that no ground floor assessment and only one in the southern area is results in a vacuum of robust information.

Table 13.7 – Sunlight Assessment of Proposed Development on Existing Buildings

Windows	Pass	Fail	Commentary
46 (13 in 5 Charlemont Terrace, seven in 5 Charlemont	30 (65%)	16 (35%)	5 Charlemont Terrace, 5 and 6 Charlemont Terrace Mews, and 1 Charlemont Avenue all have windows which both pass and fail. 11 of the 13 windows at 5 Charlemont Terrace

Terrace Mews, two in 6 Charlemont Terrace Mews, six in 1 Charlemont Avenue, 14 in Harbour View and four in the hospital			pass, four of the seven in 5 Charlemont Terrace Mews, one of the two in 6 Charlemont Terrace Mews, and only two of the six in 1 Charlemont Avenue pass. The most significant 'Times Former Value' is 0.13 for APSH for one of the two first floor windows in 6 Charlemont Terrace Mews. For Harbour View it is again Flat 9 which records the most significant 'Times Former Value' for both WPSH and APSH at 0.00 i.e. no sunlight, and 0.2 respectively. Eight of 14 windows in Harbour View pass. All four hospital windows pass.
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Overshadowing

- 13.137. Overshadowing impact on the rear external private open space areas of 1-6 Charlemont Terrace, 2, 5, and 6 Charlemont Terrace Mews (the layout plan drawing indicates that there are no external rear private open space areas for numbers 1, 3, or 4), and 1 and 2 Charlemont Avenue; 11 areas in total.
- 13.138. Appendix A of the DSR states that the BRE Guidelines state 'For a garden or amenity area to appear adequately sunlit throughout the year, at least 50% of the area should receive at least two hours of sunlight on 21 March; In addition, if, as result of new development, an existing garden or amenity area does not reach the area target above and the area which can receive two hours of direct sunlight on 21 March is reduced by more than 20% this loss is likely to be noticeable'.
- 13.139. Of the 11 areas, on March 21st three (the three Mews areas) would not meet this criteria. Of these I note that, although 5 Charlemont Terrace Mews would be reduced to no sunlight in its rear amenity space currently only 0.1sqm of it enjoys sunlight. Of the other two areas the reduction ratios are 0.65 and 0.73. These are relatively small areas immediately north of their respective mews houses which block most of the sun from the south although the proposed development would have an impact. For

example, the ratio for 5 Charlemont Terrace drops to 0.65 though it passes the BRE test because 53.38% of its 51.4sqm would retain at least two hours of sun on March 21st. Having regard to the foregoing, I do not consider that the proposed development would have an undue adverse impact on the rear amenity spaces in terms of overshadowing.

Alternative target values

- 13.140. As referenced in the DSR, Appendix F of the BRE Guidelines (including the updated 2022 (Third Edition) version), different numerical values may be used based on the special requirements of the proposed location. An example is provided in F5 of 'where an existing building has windows that are unusually close to the site boundary and taking more than their fair share of light' and a 'mirror image' is suggested. Based on this the DSR contains both a mirror image and a second alternative baseline based on indicative framework massing in the now expired DLRCDP 2016-2022.
- 13.141. I consider that the use of both of these is useful for information purposes, in particular because the absence of any notable development on the subject site currently results in all adjacent properties experiencing what could be considered unusually high levels of daylight and sunlight given their locations within a major town centre location.
- 13.142. Notwithstanding, the detail contained in Appendices G (Mirror Image Assessment (Daylight and Sunlight studies)) and H (DLRCC Framework Assessment (Daylight and Sunlight studies)) contain differing amounts of information. For example, Appendix G provides a VSC analysis only for the 209 windows in Harbour View whereas Appendix H provides a VSC analysis for all 271 windows assessed. In addition, Appendix G provides an APSH analysis for 14 Harbour View windows whereas Appendix H provides an APSH analysis for 46 windows, including the 14 Harbour View windows.
- 13.143. The comparable information in the DSR between the proposed, mirror image, and framework massing on Harbour View, as this is the structure that consistent information is provided for, can be summarised as follows:
- 13.144. Table 13.8 sets out the highest (Hghst) and lowest (Lwst) results per floor (Flr) of the respective VSC analyses between the VSCs for the proposed development ('Prop'),

the potential (Pot) mirror image development (MI), and potential DLR framework massing development (DLR Massing)⁴⁴, together with the average (Av) VSC per floor.

Table 13.8 – Comparable Information for Alternative Massings (VSC Analysis)

VSC Analysis per Floor of Harbour View									
Flr	Hghst Prop. VSC	Lwst Prop. VSC	Av	Hghst Pot. MI VSC	Lwst Pot. MI VSC	Av	Hghst Pot. DLR Massing	Lwst Pot. DLR Massing	Av
GF	10.14	4.79	7.05	2.25	1.24	1.57	9.81	2.82	4.68
FF	38.24	1.07	7.72	38.31	0 (x 7)	5.92	38.34	0 (x4)	7.82
SF	38.44	1.27	9.53	38.51	0.04	8.20	38.53	0.83	10.0
TF	38.67	1.50	10.36	38.75	1.63	9.99	38.76	1.69	11.23
FF	38.92	1.84	11.36	39.01	4.29	12.46	39.01	2.88	12.89
FF	39.23	2.33	12.87	39.31	6.55	14.95	39.31	6.01	14.31
SF	39.48	3.10	15.50	39.57	7.74	18.77	39.57	7.36	18.54
SF	36.86	8.19	28.66	38.13	10.99	31.46	38.08	10.83	31.32
Average			12.88			12.92			13.85

13.145. From the above table it can be seen that the ground floor windows/units in Harbour View, the most vulnerable to being impacted by development, would fare better on average with the development as proposed as opposed to either of the other two alternatives considered. At first floor level the proposed development is also more appropriate given that the lowest VSC would be 1.07 whereas there would be multiple other windows with a 0 VSC in either alternative scenario. At second floor and above one of the other scenarios would result in better average results. On average, Harbour View apartments would fare best in a DLR framework massing scenario, however the

⁴⁴ The 'potential' VSCs are calculated based on the 'Existing VSC' figures provided in each appendix which appear to reflect the potential VSC as opposed to the existing VSCs which are set out in Appendix D.

differences overall would not be significant. Given that the most vulnerable windows i.e. at ground and first floor levels, fare better on average in the proposed development scenario, likely as a result of the breaking up of the development into two separate buildings as opposed to a single block, I would not have any undue concern with the VSC results given that relatively substantial development would be appropriate on the subject site, given the necessity for compact growth at this location.

Conclusion

- 13.146. I note initially that any substantial development on the subject site would result in a significant change in the environment as currently experienced by surrounding residents. However, notwithstanding the existing artificially elevated levels of daylight to these properties as a result of the surface car park use, a notable number of properties/windows already have a VSC of <27%. Given the site location, the requirements of planning policies would require a substantial development of the site in terms of height and compact development which would, inevitably, have an impact on the receiving environment. The DSR contains two alternative models for assessing the impact of the proposed development, as provided for in Appendix F of the BRE Guidelines for sites such as this.
- 13.147. The proposed development has both advantages i.e. the separation between two blocks allowing more daylight to the central area of the western elevation of Harbour View, and disadvantages i.e. the 13 and nine storey heights which would reduce access to daylight. On average, the proposed development would be better for the ground and first floors of Harbour View than either of the other two alternative scenarios assessed but, overall, it would have slightly more of an impact on average, though negligible compared to the mirror image scenario.
- 13.148. I do not consider that the access to daylight issue is one which is so problematic in terms of the proposed development that permission should be refused on this basis, in particular given the results sets out for the two reasonable alternative scenarios and the site location. However, it is likely that the results would improve if the heights of both buildings were reduced to eight storeys to match the height of Harbour View.

Interrogation of the Internal Daylight and Sunlight Report (IDSR)

- 13.149. The IDSR ascertains whether the proposed development will receive sufficient levels of daylight and sunlight amenity. Of the 223 rooms assessed for ADF, 198 (89%) meet

the BRE's numerical values and 188 (84%) meet the DD values. 35 of 63 (55.5%) of main living rooms with windows oriented within 90 degrees of due south receive sunlight in line with the numerical values. The majority of shortfalls are located within Building 01 as it is affected by proposed Building 02 to its south but 'it is inevitable when designing apartment blocks that some rooms will not have access to greater levels of sunlight' (paragraph 1.3.6). In line with paragraph 3.1.7 of BR 209 (2011) a number of dwellings are aligned to the north because of the view over the harbour.

13.150. It is acknowledged in the IDSR that there are a small number of rooms which fall short of the BRE numerical targets. However, it is stated that they do so marginally, will still receive reasonable levels of light, and the BRE guidelines call for flexibility in applying the numerical criteria.

Average daylight factor analysis (ADF)

13.151. In paragraph 1.3.1 of the IDSR it is stated that 223 rooms were assessed for ADF. However, Appendix D of the IDSR (Daylight study) provides results for 227 rooms; 130 in proposed Building 01 and 97 in proposed Building 02. I note that the ground floor rooms of proposed Building 01 were not assessed e.g. resident communal areas and the café, but the internal amenity space on the top floor was.

13.152. The ADF test is set out in Appendix A (Assessments to be applied) of the IDSR. This test 'takes account of the interior dimensions and surface reflectance within the room being tested as well as the amount of sky visible from the window ... The minimum ADF values recommended in BS8206 Part 2 are: 2% for family kitchens (and rooms containing kitchens)⁴⁵; 1.5% for living rooms; and 1% for bedrooms⁴⁶. This is a test used in assessing new developments ...'

Table 13.9 – Average Daylight Factor (ADF) Analysis

	Pass	Fail	Room and Failure	Location
Proposed Building 01 (130 Rooms)	112 (86.2%)	18 (13.8%)	LKD Apt. 01.07 1.48	1 st Floor south facing
			LKD Apt. 01.06 0.91	1 st Floor south facing
			LKD Apt. 01.05 0.79	1 st Floor south facing

⁴⁵ Referenced in table 13.9 as LKD (living / kitchen / dining). These require 2%.

⁴⁶ Referenced in table 13.9 as 'Bdrm'.

			Bdrm Apt. 01.01	0.56	1 st Floor north facing
			Bdrm Apt. 01.01	0.57	1 st Floor north facing
			LKD Apt. 02.09	1.22	2 nd Floor south facing
			LKD Apt. 02.08	1.29	2 nd Floor south facing
			LKD Apt. 02.07	0.87	2 nd Floor south facing
			LKD Apt. 02.06	0.73	2 nd Floor south facing
			LKD Apt. 03.09	1.15	3 rd Floor south facing
			LKD Apt. 03.08	1.19	3 rd Floor south facing
			LKD Apt. 03.07	0.83	3 rd Floor south facing
			LKD Apt. 03.06	0.46	3 rd Floor south facing
			LKD Apt. 04.09	1.02	4 th Floor south facing
			LKD Apt. 04.08	1.04	4 th floor south facing
			LKD Apt. 04.07	0.76	4 th floor south facing
			LKD Apt. 04.06	0.11	4 th floor south facing
			Bdrm Apt. 08.04	0.70	8 th Floor west facing
Proposed Building 02 (97 Rooms)	88 (90.7%)	9 (9.3%)	LKD Apt. 01.05	0.35	1 st Floor south facing
			LKD Apt. 01.03	0.65	1 st Floor N/E facing
			LKD Apt. 01.02	0.15	1 st Floor north facing
			Bdrm Apt. 01.01	0.06	1 st Floor north facing
			LKD Apt. 02.05	0.25	2 nd Floor south facing
			LKD Apt. 02.03	0.38	2 nd Floor N/E facing
			Bdrm Apt. 02.01	0.02	2 nd Floor north facing
			LKD Apt. 03.05	0.08	3 rd Floor south facing
			LKD Apt. 03.03	0.00	3 rd Floor N/E facing

- 13.153. I am unclear as to how the west facing bedroom in apartment 08.04 fails the ADF test by such a margin given that it is at a high level on proposed Building 01 and is the only room at this height or facing this direction that fails. This may be a typographical error. In addition, the north and east facing LKD in apartment 03.03 in proposed Building 02 is labelled as failing the ADF test though it has a 2% ADF.
- 13.154. The 27 rooms out of the 227 assessed that fail the ADF test (11.9%) are set out in table 13.9. They are almost exclusively rooms in the lower floors of both buildings. Given the proximity of the eight storey Harbour View, the four storey St. Michael's Hospital, and the scale of the proposed buildings, this is to be expected. I consider that the proposed development performs reasonably well. Eight of the nine rooms that fail in proposed Building 02 fail by less than 20%.
- 13.155. 15 out of the 18 failed rooms in proposed Building 01 are south facing LKDs at first to fourth floor levels. These 15 rooms would overlook the communal courtyard which could be considered to be a reasonable compensatory measure. In addition, three of the seven one-bed units exceed the minimum 23sqm KLD area by 3.1sqm and four of the eight two-bed units exceed the minimum 30sqm by 5.4sqm. The three bedrooms that fail have views across the harbour which I consider make up for the ADF shortfall.
- 13.156. Seven of the nine failed rooms in proposed Building 02 are KLDs. Three of them are south facing and all fail by less than 20%. Three of them are dual aspect rooms which include a north elevation. The sole north facing LKD is a relatively marginal fail. All four LKDs that have north facing elevations overlook the communal courtyard as do the two north facing bedrooms which very marginally fail the ADF test.
- 13.157. Having regard to the foregoing, I do not consider that the proposed development would result in an unduly adverse living environment for future residents. Given the site location, the requirement for a sufficient density of development, and the scale of existing development on adjoining sites I consider that the results of the ADF test are acceptable.

Deficiencies in the Application

- 13.158. In my opinion the planning application is deficient in terms of the daylight / sunlight issue in so far as it relates to the DLRCDP 2022-2028 and also in more general terms. The deficiencies are as follows:

- Subsection 12.3.4.2 (Habitable Rooms) of the DLRCDP 2022-2028 requires assessment of habitable rooms to be guided by the principles of BRE 209 (2011) or updated/subsequent guidance. There is updated/subsequent guidance in place i.e. BR 209 (2022) (Third Edition). As the application's DSR and IDSR were prepared under BR 209 (2011) (Second Edition) the application does not comply with the requirements of the DLRCDP 2022-2028 in this regard.
- Subsection 12.8.5.3 (Communal Open Space – Quality) of the DLRCDP 2022-2028 requires that adequate levels of sunlight reach communal amenity space throughout the year specifically in accordance with BR 209 (2011). Although paragraphs 1.3.9-1.3.11 of the IDSR refer to the external communal areas on the fifth and eighth floors of proposed Building 01, there is no reference to the external communal areas at ground level between both buildings or on the eighth floor of proposed Building 02. Paragraph 4.11 of the Apartment Guidelines (2020) also relates to this issue.
- Following on from the previous bullet point, subsection 12.8.5.4 (Roof Gardens) of the Plan states that roof gardens will be considered subject to, among other things, a daylight and sunlight assessment. As per the previous bullet point, the IDSR does not include the proposed eighth floor communal amenity area.
- 6 Charlemont Terrace, the closest building in the terrace, is excluded from the DSR e.g. from the tables in paragraphs 2.3.2 and 4.1.5. However it is included in the tables in paragraph 5.4.2 and 5.4.6, and in Appendix F (Overshadowing study), where it is stated that it meets BRE criteria for overshadowing of external amenity areas. It is also not included in Appendix C (Window/room reference drawings) which illustrate the windows and rooms in the DSR. It is not stated why 6 Charlemont Terrace has been excluded, however it may be because it is in commercial use⁴⁷.
- As referenced in the submission from the relevant homeowner, there are five rear elevation rooflights on 6 Charlemont Terrace Mews, effectively constructed onto the site boundary. Only one of the five rooflights has been included in the study

⁴⁷ On my site inspection there was a 'For Sale' sign on site for 6 Charlemont Terrace. It was described as 'Approx 400 sq.m / 4,305 sq.ft. offices, with potential for residential conversion (spp)'.

despite the location of proposed Building 02. I consider the omission of four of the five rooflights to be a deficiency in the DSR.

- The Sunlight Study (Appendix E of the DSR) includes only 14 Harbour View apartments. Of these 14 apartments there are none on the ground floor and only one is in the southern area of the building with the other 13 flats assessed all located in the northern end of Harbour View. I consider that the exclusion of all ground floor units and the inclusion of only one in the southern area results in a vacuum of robust information.

Conclusion

13.159. The issue of daylight, sunlight, and shadowing were raised in multiple submissions received from third parties. In addition, overshadowing impact on residential properties was included in the first recommended reason for refusal in the planning authority's Chief Executive's Report. Notwithstanding, it must be borne in mind that the advice set out in the BRE guidelines are not mandatory and should be interpreted flexibly because daylight and sunlight is only one of many factors in assessing a planning application. For example, policy objective PHP18 of the DLRCDP 2022-2028 promotes increased apartment supply and compact urban growth through re-intensification of infill/brownfield sites.

13.160. Although there are deficiencies within the DSR and IDSR e.g. exclusion of a number of communal amenity areas in particular the ground level area, the omission of rooflights to 6 Charlemont Terrace Mews, and the limited information relating to sunlight access in Harbour View, based on the information submitted, I do not conclude that the proposed development would be unacceptable given the provisions of policy objective PHP18 and the site location in a major town centre zoned area and in such close proximity to public transport infrastructure. Though I consider that more robust information would be useful before a final conclusion in this regard was reached, I do not consider that permission should be refused on this basis.

13.161. I recommend that permission is refused in the first instance because the proposed height of 13 storeys would materially contravene the provisions of the DLRCDP 2022-2028 and the proposed density of 313uph is excessive. A reduction in the 13 storeys to a more appropriate maximum height, with a slight reduction in the height of proposed Building 02, would likely improve the daylight and sunlight performance of

the proposed development, to both existing properties and within the development itself.

Impact on Architectural Heritage

13.162. Concerns about the potential impact on architectural heritage are contained within a number of submissions, as summarised in section 8 of this IR under the subheading 'Conservation / Archaeology / Heritage'. Concerns include the impact on Charlemont Terrace (Record of Protected Structures (RPS) nos. 520-522, 526, 531, and 535) and Charlemont Avenue (RPS no. 560, 567, 579, 588, 603, 615, and 625) as a result of the proposed scale of development, and on the character of the harbour and waterfront.

13.163. This subsection specifically addresses the impact of the proposed development on the protected structures in the immediate vicinity⁴⁸. Wider issues relating to the town's skyline have been previously addressed in the subsection on building height.

Applicant's Supporting Architectural Heritage Impact Assessment (AHIA)

13.164. The AHIA includes an historical background, notes the protected structures in the vicinity (Charlemont Terrace and Charlemont Avenue), notes the relevant guidance⁴⁹, sets out provisions of the DLRCDP 2016-2022⁵⁰, and provides brief commentary on the mid-Twentieth century house on site that it is proposed to demolish and on the other relevant existing structures.

13.165. An assessment of the proposed development in the context of its receiving environment between predominantly older residential buildings to the west and newer buildings to the east is provided. Among the commentary in relation to proposed Building 01 is that the highest point i.e. the 13 storey element 'is at a sufficient separation from Charlemont Terrace that it does not crowd the protected structures in

⁴⁸ The Royal Irish Yacht Club (RPS no. 458) is only approximately 70 metres north of the development site. However, given the amount of existing infrastructure between the site and the protected structure e.g. Crofton Road, the Dart line and associated extensive overhead wire infrastructure, a telecommunications mast, and Harbour Road, I do not consider that the proposed development would have any notable impact on the setting of the Royal Irish Yacht Club building.

⁴⁹ The Architectural Heritage Protection Guidelines for Planning Authorities (2011).

⁵⁰ Similar policies and commentary are largely again included in the DLRCDP 2022-2028 in policy objectives HER7 (Record of Protected Structures), HER8 (Work to Protected Structures), HER20 (Buildings of Vernacular and Heritage Interest), and subsection 12.11.2 (Architectural Heritage - Protected Structures).

the terrace' (pages 18/19). Reference is also made to separation distances, the vehicular access, external materials, and window proportions. Proposed Building 02 is considered to be far enough from the Terrace so that its setting would not be compromised and its rear elevation is not a significant view. The purpose of the Mews buildings was 'purely utilitarian' and they have been significantly altered. The view of proposed Building 02 'opposite the end of the mews lane would not result in the diminution of a view of architectural heritage significance' (page 20). It is considered that the backdrop to the Charlemont Avenue houses is/would be the hospital buildings rather than the proposed development. The impact of the proposed development on the skyline of the town is also considered (as included in the last bullet point in paragraph 13.44 in relation to building height).

- 13.166. The AHIA concludes that 'The findings of this analysis is that the proposed development would provide the necessary transitions between the heights, building lines, styles and other factors, both in the immediate vicinity of the site and as part of the wider urban and maritime landscape and ... would not have an adverse impact on the historic environment, including the protected structures in the vicinity'.

Submissions

- 13.167. While the main relevant issues raised in the third party submissions are collectively summarised in section 8 under the subheading 'Conservation / Archaeology / Heritage', I draw the Commission's attention to the detailed Conservation Impact Assessment (CIA) dated 9th February 2021 prepared for 5 Charlemont Terrace (Lisieux House and its Mews building). As per Footnote 11 this was submitted with three separate submissions.
- 13.168. It includes a general history of the town and structures, an assessment of the applicant's Daylight and Sunlight report, and an assessment of the AHIA. This states that there are omissions in the AHIA, an absence of drawings, and inaccurate descriptions. It disagrees with the assessment of the impact of proposed Building 01 on Charlemont Terrace, of proposed Building 02 on Charlemont Terrace Mews, and of the proposed development on the skyline. Other concerns such as traffic, density, and noise and light pollution are set out as well as commentary on the Statement of Material Contravention. The document concludes by stating, among other things, that the proposed SHD will overwhelm the protected structures at Charlemont Terrace. A

second document, referred to in the CIA as ‘Section 2 Photographic report and slides’, has also been submitted.

Chief Executive’s Report

- 13.169. Internal DLRCC section reports for the proposed development were prepared by both the Architects Department and the Conservation Officer. The Architects Department report does not specifically reference the protected structures status of Charlemont Terrace, or any other protected structures, in its recommendation that a ‘shoulder line’ similar to Charlemont Terrace should be presented, stepping up to Harbour View. The Conservation Officer’s report states ‘The two blocks closer to the west of the site ... are not an issue having regard to their relationship with the Charlemont Terrace’, while, similar to the Architects Department report, not supporting the proposed 13 storey element of the proposed development.
- 13.170. The Chief Executive’s Report states, among other things, that ‘the development has not carefully addressed the scale and setting of Charlemont Terrace and other protected structures in the area, given its height’ (page 47), though this seems to be more in the context of the wider building height issue as set out on the following page; ‘the proposed development has not carefully addressed the scale and setting of Charlemont Terrace, given its height and would impact on the hierarchical between long established landmark buildings and new infill development, contrary to the objectives set out in the Dun Laoghaire Urban Framework Plan’. Page 49 of the Chief Executive’s Report does not agree with the conclusion of the AHIA and ‘does not accept that the building as proposed has sufficient regard to the qualities of buildings and areas of architectural and historic interest and important views and prospects in accordance with the general principles set out in the building height strategy’.
- 13.171. In its conclusion, the only protected structures that are specifically cited are St. Michael’s and the Council Offices. The adjoining properties i.e. Charlemont Terrace and Charlemont Avenue are referenced in more general terms of impact on visual and residential amenities. The planning authority’s third recommended reason for refusal, as set out in subsection 9.2, includes that the overall height, scale, and massing ‘would adversely impact on the setting of these protected structures ...’, though the reason is based more on the wider building height issue.

Assessment and Conclusion

- 13.172. The height of the proposed development in the context of the building height strategy and UFP has been addressed in detail in paragraphs 13.42-13.66. I concluded that the 13 storey element would be excessive in the context of the planning policy framework i.e. the impact on the protected structures, the civic buildings, and the wider Dun Laoghaire skyline, and that to permit the development, as proposed, would be contrary to the provisions of the DLRCDP 2022-2028 in terms of building height.
- 13.173. The Chief Executive's Report specifically refers to the protected structures of Charlemont Terrace and Charlemont Avenue in its third recommended reason for refusal, referring to the height, scale, and massing of the proposed development. I note though that the reason for refusal concentrates more on the proposed building height in the context of the wider skyline.
- 13.174. Specifically relating to the protected structures on Charlemont Terrace and Charlemont Avenue I note that the Architects Department report recommends that a height similar to Charlemont Terrace is provided in that area of the site, stepping up to the eight storey height of Harbour View. The report does not state that the Proposed Building 01 is inappropriate in any way as currently proposed adjacent to the Terrace. In addition, the Conservation Officer's report clearly states that the 'two blocks' closer to the west of the site i.e. proposed five and six storey elements, 'are not an issue having regard to their relationship with the Charlemont Terrace'.
- 13.175. My interpretation of the Chief Executive's Report and the two internal reports is that the setting of the protected structures is not unduly adversely affected by the two lower elements, which are the closest parts of proposed Building 01, but the main concern relates to the 13 storey element and its impact on the wider skyline.
- 13.176. The subject site is in a town centre zoned area in very close proximity to very good public transport infrastructure. The surface car park is/was a significant under use of a very well located site. It is likely that development will be carried out on this site at some point and that development would have to result in a compact form of development with a reasonable density. As a result, there will be an impact on the settings of the protected structures.
- 13.177. I have concluded elsewhere that the proposed 13 storey element is not appropriate at this location. Notwithstanding, I consider that the five and six storey elements adjacent

to Charlemont Terrace are acceptable and would not have an undue adverse impact on the setting or amenity of the protected structures over what would normally be expected to arise as a result of the development of a town centre site. My position on this is in line with the planning authority's Conservation Officer. I have previously considered the overlooking impact on the protected structures, from both proposed buildings. I do not consider any undue impact would arise. In terms of settings and the streetscapes, both lines of protected structures would clearly still remain to be read as part of the same original line, distinct from the contemporary higher buildings on the subject site.

13.178. I do not consider that the proposed development would have any undue adverse impact on the settings of the Charlemont Terrace and Charlemont Avenue protected structures in the context of the provisions of the DLRCDP 2022-2028. The most applicable policy objective is HER8 and subsection 12.11.2.3 (Development within the Grounds of a Protected Structure) is also relevant. The subsection includes proposed development in close proximity to a protected structure. Relevant provisions of the Building Height Guidelines (2018) are referenced within the subsection. I do not consider that the existing settings of the protected structures are particularly notable or sensitive. Charlemont Terrace is adjacent to a surface level car park and Charlemont Avenue has the backdrop of St. Michael's Hospital. The site is in very close proximity to very good public transport infrastructure and is in a major town centre zoned area. I consider that, in principle, higher buildings are therefore acceptable on this site, and the proposed development proposes an acceptable balance between the protected structures and wider planning policy requirements for compact growth in this type of location. The 13 storey element, as described in detail elsewhere in this IR, is a significant concern on the basis of its impact on the wider skyline of Dun Laoghaire but I do not consider that there would be such an undue adverse impact on the specific settings of the protected structures of Charlemont Terrace and Charlemont Avenue that permission should be refused on that basis in the context of the DLRCDP 2022-2028.

13.179. Having regard to the foregoing, I consider that the proposed 13 storey element is inappropriate at this location in terms of its height. Notwithstanding, the lower five and six storey elements are acceptable and would not, in my view, have an undue adverse

impact on the settings or amenities of the protected structures on Charlemont Terrace or Charlemont Avenue.

Car Parking

13.180. At the time of the submission of the application the site comprised an approximately 90 space public car park. Concern was expressed in multiple submissions received about the loss of the car park spaces, the minimal provision of three spaces on-site, and the combined knock-on effect that this would have on parking provision and congestion in the area. As referenced previously, I noted on my site inspection that the car park use has been discontinued on site.

Loss of Car Parking Spaces (General)

13.181. The car park had been used by, among others, visitors and patients of the hospital, visitors to Dun Laoghaire, and, according to submissions, visitors to Harbour View. I note that the car parking spaces within the grounds of the hospital itself, which is accessed via a barrier system through the SHD site, remain unaffected. Temporary vehicular access through the application site was provided for on my site inspection and a permanent vehicular access would be provided during the operational phase.

Car Parking in the Chief Executive's Report

13.182. The DLRCC Transportation Planning Section report is attached as an appendix to the Chief Executive's Report. It states that, notwithstanding the applicant's supporting documentation and location in proximity to the Dart and bus services 'the proposed car parking provision for this proposed 102 No. BTR residential unit apartment development is too low to provide mobility options at all times for future residents' and considers that a minimum car parking ratio of 0.5 spaces per apartment should be provided i.e. a minimum of 51 spaces. Commentary is provided to support the position taken. The section recommended a refusal of permission⁵¹ but also recommended

⁵¹ 'Due to a lack of provision of adequate residential car parking to serve the proposed development which would result in an under provision/availability of a car parking space in the area. This lack of provision of adequate parking is also likely to result in significant increased unauthorised parking which may have an associated traffic hazard. The proposed development would, therefore, add to the traffic hazard and congestion in the area, would seriously injure the amenities of property in the area and be contrary to the proper planning and sustainable development of the area' [sic].

conditions should permission be granted. Condition 1 recommended that vehicular parking facilities be maximised.

13.183. The Chief Executive's Report itself, while noting the flexibility of SPPR 8 (iii) of the Apartment Guidelines (2020), states 'the Planning authority [sic] considers that the provision of 3 no. car parking spaces is less than minimal and therefore would not be in accordance with the provisions of the (Apartment Guidelines (2020))' (page 71). Notwithstanding, deficient car parking was not cited within any of the three recommended refusal reasons.

Loss of Car Parking Spaces Through Subsequent Permission

13.184. Permission was granted by DLRCC under D21A/1041 for 74 BTR apartments, a commercial unit, and a café, as per paragraph 4.4 of this IR. 88 apartments had originally been applied for. Three car share parking spaces were initially proposed, including one disabled space, in the central courtyard, similar to the current SHD application. While the Transportation Planning Section indicated no objection subject to conditions on foot of a further information response, their initial report noted that 'An Bord Pleanála recently granted planning permission for a 102 no. Build-to-Rent residential apartment development including a publicly accessible café on this site with the same provision of off-street parking as proposed in this mixed use development ...' It is clear in my opinion that the Board's decision on the subsequently quashed SHD application influenced the Transportation Planning Section report in relation to car parking. As part of the further information response two car parking spaces were omitted in favour of revised communal space with only one accessible space retained on site. The planning authority granted permission.

13.185. The application was subject of third party appeals under ABP-314309-22. The issue was considered in subsection 7.4 of that IR. It was considered that the development satisfactorily addressed the criteria to warrant a deviation from the parking standards specified in the Development Plan and would be acceptable under SPPR 8 (iii) of the Apartment Guidelines (2020). The application was granted permission.

Car Parking in the Apartment Guidelines (2020)

13.186. As per subsection 7.6 of this IR the Apartment Guidelines (2020) are the applicable iteration of the Guidelines for SHD applications. SPPR 8 (iii) states 'There shall be a default of minimal or significantly reduced car parking provision on the basis of BTR

development being more suitable for central locations and/or proximity to public transport services. The requirement for a BTR scheme to have a strong central management regime is intended to contribute to the capacity to establish and operate shared mobility measures’.

13.187. Paragraph 4.19 of the Guidelines states ‘In larger scale and higher density developments, comprising wholly of apartments in more central locations that are well served by public transport, the default policy is for car parking provision to be minimised, substantially reduced or wholly eliminated in certain circumstances’.

Car Parking Requirements of the DLRCDP 2022-2028

13.188. Subsection 12.4.5 (Car Parking Standards) notes that car parking standards have been informed by the Apartment Guidelines (2020) ‘including SPPR 8’, among other documents such as the NPF.

13.189. The site is in Zone 1 for car parking. Table 12.5 (Car Parking Zones and Standards) does not specify a car parking standard for apartments in Zone 1⁵². Where this occurs the planning authority shall determine the requirement for car parking having regard to thirteen identified assessment criteria, which are set out in subsection 12.4.5.2 (Application of Standards) (i) (Assessment Criteria for Deviation from Car Parking Standards (set out in Table 12.5)). This subsection also states that ‘In certain instances, in Zones 1 and 2 the Planning Authority may ... consider that no parking spaces are required’.

Assessment

13.190. Subsection 12.4.5.3 (Car Parking – General) of the DLRCDP 2022-2028 states that the planning authority shall determine parking requirements, where table 12.5 does not identify a parking standard, using the assessment criteria set out in 12.4.5.2 (i). These criteria are considered under this subheading.

- The subject site is within approximately 100 metres of a high capacity public transport interchange having regard to the Dart station and bus terminus.
- The site is appropriately served by walking and cycling accessibility and permeability. A pedestrian link is proposed along the eastern boundary which

⁵² In terms of the proposed café use there is no requirement for any car parking in Zone 1 when the gross floor area is less than 100sqm.

could connect to the wider area, though this is outside the applicant's ability to fully deliver as part of this application.

- The lack of car parking would strongly encourage residents to utilise public transport or other active travel modes. Of the three spaces provided, one is an accessible space.
- The application proposes two car share spaces, though the letter of intent in relation to same is more than five years old.
- The previous use of the site as a car park has been discontinued. There are a number of other car parking areas in the locality such as on-street, the general harbour area, the Pavilion, and Dun Laoghaire Shopping Centre. While these are likely to be in demand, I consider that there is potential for dual use.
- The DLRCDP 2022-2028 states that BTR development shall be located within a 10 minute walking time from high frequency public transport routes. Subsection 12.3.6 (Build-to-Rent Accommodation) states that car parking must comply with the requirements of subsection 12.4.5, which itself allows for the provision of no car parking for Zone 1 development in certain circumstances. Subsection 12.4.5.6 (Residential Parking) makes reference to BTR schemes availing of 'lower car parking based on the nature of the use', implying that BTR is different to a standard residential apartment development.
- The site is within a major town centre zoned area with a very wide range of services and amenities available to residents.
- The car park on site has already been removed. Only three spaces are proposed which would result in negligible additional traffic movement. A suitable compliance condition would be required, in my opinion, relating to the provision of a set-down/delivery area and to remove the refuse collection from along the street. Notwithstanding, I do not consider that there would be a notable impact on traffic safety as a result of the proposed development.
- I do not consider that the proposed development would have any notable adverse impact on the capacity of the surrounding road network.

- The proposed development would greatly contribute to an urban streetscape as a result of the development of the site, including the provision of a small public plaza area to Crofton Road and a café.
- An Outline Travel Plan was submitted with the application. The Transportation Planning Section recommended related conditions in its report (recommended conditions 14 and 15).
- On-street parking in the vicinity is pay and display parking with resident permits available.
- The proposed development includes car sharing spaces and substantial bicycle storage facilities, including provision of a small bicycle repair area in Building 02.

13.191. Having regard to the above bullet points, which address the assessment criteria for deviation from car parking standards (though no specific standards are prescribed for this type of development), I consider that the proposed development performs favourably, in particular in relation to its proximity to a high capacity public transport interchange, its location within the major town centre zoning, and the availability of services and amenities. I am satisfied that the proposed development warrants a deviation from car parking standards.

13.192. While I acknowledge the concerns expressed in the submissions in relation to car parking, the applicable planning framework permits development of this type. The DLRCDP 2022-2028 states 'In certain instances, in Zones 1 and 2 the Planning Authority may allow a deviation from the maximum or standard number of car parking spaces ... or may consider that no parking spaces are required. Small infill residential schemes (up to 0.25 hectares) or brownfield/refurbishment residential schemes in zones 1 and 2 ... may be likely to fulfil these criteria'. The proposed development is largely consistent with this i.e. a brownfield residential scheme on 0.33 hectares (net) in Zone 1.

13.193. Paragraphs 4.19 and 4.20 of the Apartment Guidelines (2020) are also relevant. While the Transportation Planning Section, in its report, does not consider the site to be 'in or adjoining city cores' or 'at a confluence of public transport systems', the site is nonetheless very well served by public transport. Paragraph 4.19 gives those as examples of locations where 'the default policy is for car parking provision to be minimised, substantially reduced or wholly eliminated in certain circumstances', but

this default policy is not necessarily restricted to those specific areas. In addition, paragraph 4.24 states that “Car free’ development is permissible ...’ Given the provisions of the Guidelines, I consider this site to be an area where car parking provision can be substantially reduced/wholly eliminated, based on the planning framework.

13.194. In addition to the provisions of the DLRCDP 2022-2028 and the Apartment Guidelines (2020), SPPR 3 (i) of the Compact Settlement Guidelines (2024) states ‘In city centres and urban neighbourhoods of the five cities ... car-parking provision should be minimised, substantially reduced or wholly eliminated’. I consider the subject site to be located within an urban neighbourhood, as per paragraph 7.8.3 of this IR.

13.195. Finally in relation to car parking, I would draw the Commission’s attention to two planning decisions in the area. The Board granted permission under ABP-304249-19 for a 208-room BTR shared living development approximately 100 metres to the east. It included four visitor car parking spaces, one disabled space, one car share space and a short-term set down area, not proportionally dissimilar to the proposed development. In addition, the previous application on this site which was granted by the Board under ABP-314309-22 contained a single accessible space for 74 apartments. The proposed development would, therefore, be consistent with recent planning decisions.

Conclusion

13.196. While I acknowledge the concerns expressed in the submissions received, having regard to the site location, and in particular its proximity to high capacity public transport and its location in a major town centre zoned area, to the applicable planning framework, and to recent decisions of the Board in the vicinity, I conclude that the proposed level of car parking provision is acceptable in this case.

The Planning Authority’s Recommended Reasons for Refusal

13.197. The Chief Executive’s Report recommends permission be refused for three reasons. These reasons are set out below and I briefly address each in the context of my planning assessment.

First Reason for Refusal

- 13.198. 'The proposed development, by reason of its overall height, density, scale, and massing, fails to have regard to its surrounding context, would have a detrimental impact on the character of the surrounding area, would seriously injure the visual and residential amenities of properties located within its immediate vicinity by reasons of overshadowing, overlooking, by being visually overbearing and thereby constitutes overdevelopment of the site. Furthermore, having regard to the window treatments along the side elevation of the proposed Building 01, in particular principally translucent glazing to serve the bedroom in one-bedroom apartments, the proposed development would result in substandard residential accommodation for future occupiers of the proposed development. The proposed development is considered to be contrary to Policy UD1, Appendix 9 (Building Height Strategy) and Appendix 12 (Dun Laoghaire Urban Framework Plan) of the Dun Laoghaire Rathdown County Development Plan, 2016-2022 and the Urban Development and Building Heights, Guidelines for Planning Authorities (2018, DoHPLG). The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area'.
- 13.199. I agree with the Chief Executive's Report recommendation in terms of the excessive height and density, and I recommend that permission is refused on this basis. Therefore, by extension, this would incorporate the scale and mass of the proposed development and that it would comprise overdevelopment of the subject site. This is set out in paragraphs 13.22-13.67.
- 13.200. However, having assessed the other matters referenced I have reached a different conclusion:
- Overshadowing – I acknowledge that there are deficiencies in relation to the content of the planning application in this regard. However, I do not recommend that permission be refused on this basis as per the 'Daylight and Sunlight' subsection.
 - Overlooking – This is an issue raised in many third party submissions. However, I consider that a reduction in the normal separation distance is acceptable in this instance as set out in paragraphs 13.74-13.89.

- Substandard residential accommodation – While I acknowledge the necessity for the provision of non-standard architectural features such as translucent glazing in order to avoid undue overlooking, I consider them acceptable in this instance. This issue is also addressed in the paragraphs relating to overlooking as per the above bullet point.

Second Reason for Refusal

13.201. 'Having regard to the zoning objective of the site as 'Major Town Centre' and the location of the site within the Seafront Quarter of Dun Laoghaire, as contained in the Dun Laoghaire Urban Framework Plan, it is considered that the proposed development fails to provide an appropriate mix and balance of uses and activities, given the MTC zoning and fails to provide the mix of uses and activities appropriate to the Seafront Quarter as envisioned in the Dun Laoghaire Urban Framework Plan. The proposed development is considered to be contrary to Policy RET4: Major Town Centres of the Dun Laoghaire Rathdown County Development Plan, 2016-2022, contrary to Appendix 12 (Dun Laoghaire Urban Framework Plan) and contrary to the MTC zoning objective for the area. Therefore, the proposed development is contrary to the proper planning and sustainable development of the area'.

13.202. As per the 'Zoning and Principle of Development' heading in this planning assessment (paragraphs 13.6-13.9), I consider that the mix of uses and activities proposed is sufficient to result in a development which is adequately compliant with the zoning objective. Though overwhelmingly a residential development, the café use would provide some commercial activity on site and a small public plaza area would be created adjacent to Crofton Road. A pedestrian link along the eastern boundary would facilitate the possible future connection of Crofton Road with the town centre area. I do not consider that a refusal on this basis as recommended by the planning authority is warranted.

Third Reason for Refusal

13.203. 'The application site on Crofton Road occupies a prominent location on the approach to Dun Laoghaire town centre from the west. Protected structures are located to the west and southwest of the application site, at Charlemont Terrace and Charlemont Avenue respectively. The proposed development, by reason of its

overall height, scale and massing, would adversely impact on the setting of these protected structures, and would be visually injurious to the amenities of the area. Furthermore, Dun Laoghaire has largely retained a unique hierarchy whereby civic buildings and church spires have pre-eminence on the skyline. The Dun Laoghaire Urban Framework Plan, as set out in Appendix 12 of the Dun Laoghaire Rathdown County Development Plan 2016-2022, states that the character of Dun Laoghaire will be protected, that intensification should be promoted generally through compact urban form rather than taller buildings, and also that a key objective is to protect the unique skyline particularly for views from the East and West Piers. The proposed development, which does not comprise a civic or public building, would, by reason of its overall height, detract from the existing urban skyline and would compete with existing landmark structures. The proposed development would thereby be contrary to the provisions of Dun Laoghaire Urban Framework Plan, as set out in Appendix 12 of the Dun Laoghaire Rathdown County Development Plan 2016-2022. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area’.

13.204. The proposed development is immediately adjacent to a number of protected structures. While the recommended reason for refusal refers to the impact of the proposed development on these protected structures, the reason also more widely references the skyline of the town and the broader impact. I agree with the planning authority in relation to the height of the proposed development and its impact on the skyline.

13.205. I have considered the impact of the proposed development on the architectural heritage of the area in paragraphs 13.162-13.179. I do not consider that there would be such an undue adverse impact on the specific settings of the protected structures of Charlemont Terrace and Charlemont Avenue that permission should be refused.

Other Matters

Fire Safety

13.206. A number of fire safety related issues have been raised in the submissions received.

13.207. I note that the proposed development would require a fire safety certificate. Subsection 7.8 of the Development Management Guidelines (2007) states that ‘It is inappropriate ... in development management, to deal with matters which are the subject of other controls unless there are particular circumstances ...’

13.208. No issue in relation to fire safety has been expressed by DLRCC. Having regard to the requirement for a fire safety certificate to be obtained I do not consider that fire safety is a matter to concern the Commission.

Thresholds for Documentation in the Dun Laoghaire Rathdown County Development Plan (DLRCDP) 2022-2028

13.209. Appendix 3 (Development Management Thresholds) of the DLRCDP 2022-2028 identifies thresholds for the submission of supplementary documentation as part of a planning application. Table 3.2 of the appendix sets out ‘Key Thresholds’ whereas table 3.3 sets out ‘Thresholds’. The relevant documents are identified below together with commentary as to whether the relevant document has been submitted with the SHD application. There is some overlap between tables 3.2 and 3.3. The ‘Key Thresholds’ are only referenced where there is an overlap.

Table 13.10 – Thresholds as per Appendix 3

Key Thresholds	
Document	Submitted with application?
Travel Plan	Yes. ‘Outline Travel Plan’ dated 10 th December 2020.
Cycle Audit	No specific Cycle Audit has been submitted. However, the Statement of Consistency makes a number of references to bicycle parking and the Outline Travel Plan refers to cyclist provision (subsections 5.2 and 5.3). I consider these to be adequate given the urban location and small site area.

Waste Management Plan ⁵³	Yes. 'Outline Construction and Demolition Waste Management Plan' and 'Outline Operational Waste Management Plan', both dated 10 th December 2020.
Landscape Design Rational	Yes. 'Design Rationale – Landscape Architecture' dated 27 th October 2020.
Construction Management Plan	Yes. 'Outline Construction Management Plan' dated 6 th January 2021.
Energy Statement	Yes. 'Sustainability Report' dated October 2020.
Stormwater Impact Assessment (SIA)	No specific SIA has been submitted though stormwater is addressed by both the Engineering Planning Report and the Stage 1 Surface Water Audit. 'Stormwater Management Policy' (section 7.1 of Appendix 7 (Sustainable Drainage Systems Measures) sets out requirements for applications. It appears that the submitted application is not in line with these e.g. relating to urban creep and Cv values ⁵⁴ . I therefore consider that the application is not fully in compliance with the requirements of the DLRCDP 2022-2028.
Green Roof	There is an inconsistency in the application as regards green roof detail. Two submitted drawings are titled 'Overall Roof Plan' and both have the same drawing number (drg. no. P18-143D-RAU-ZZ-ZZ-DR-A-PL1-31008). One is a full size A1 drawing submitted as part of the suite of application drawings and the other is A4 size and is included as part of Appendix A to the Stage 1 Surface Water Audit. The green roof area of Proposed Building 01 differs between both drawings. The A4 drawing gives an area of 521.6sqm and the A1 drawing gives

⁵³ Table 3.2 also separately refers to 'Recycling and Composting', 'Bin Point', and 'Bring Centre'. I consider each of these to be adequately addressed by the Outline Construction and Demolition Waste Management and Outline Operational Waste Management Plans.

⁵⁴ Subsection 7.1.1 (General Requirements) of the appendix states 'All developments must apply a factor of 1.1 to their drainage design and attenuation volumes to accommodate urban creep'. This does not appear to have been applied. Subsection 7.1.3 (All Other Developments) states that a Cv value of 1.0 should be used for runoff as opposed to the default values of 0.84 for Winter and 0.75 for Summer as per standard surface water simulation software. The default values appear to be used in Appendix E.

	an area of 416sqm. The difference appears to be as a result of the A4 drawing counting the twelfth floor roof area as a green roof. I note that it is also identified as a green roof on 'Building 01 – R01 – Roof Plan' of the A1 size 'Building 01 – Twelfth Floor and Roof Plan' drawing and in illustrations in the SHD Housing Quality Assessment document e.g. figures 26 and 27. For an extensive green roof, Standard GR2 (Aerial coverage) of Appendix 7 of the DLRCDP 2022-2028 requires a minimum roof coverage of 70% and for an intensive green roof 50% is required⁵⁵⁵⁶. The A1 size drawing differentiates between extensive and intensive green roof areas (the intensive areas correspond to the communal open space areas) but gives a combined green roof coverage figure of 698.1sqm (61.1%). The A4 size drawing does not differentiate between both types of green roofs and gives a green roof coverage figure of 803.7sqm (70.3%). Section 4 of the Green Roof Policy states that when lodging an application for development which includes a green roof, certain information is required as a minimum e.g. a design statement, hydraulic calculations, and drawings. I consider that the application is not fully in compliance with the requirements of the Plan in terms of information relating to the Green Roofs Policy, and contradictory information has been provided.
Design Statement	Yes. 'SHD Design Appraisal' dated December 2020.

⁵⁵ An extensive green roof is more lightweight when compared with an intensive roof with a shallow soil layer and are not normally designed to provide access for people.

⁵⁶ Appendix 16 (Green Roofs Guidance Document) of the DLRCDP 2016-2022, under which the application was made, stated 'A Green Roof, where required, shall in all cases cover a minimum of 60% of the Roof area'

Climate Change Impact Assessment (CCIA)	No. Notwithstanding the submission of related documentation e.g. 'Site Specific Flood Risk Assessment' (SSFRA) dated 10 th December 2020 and 'Wind Microclimate Modelling' dated 11 th September 2020, no specific CCIA has been provided ⁵⁷ .
EIA Report / Screening	Yes. 'EIA Screening Report' dated January 2021.
AA Screening / Natura Impact Statement (NIS)	Yes. 'Appropriate Assessment Screening Report' (AA Screening Report) dated December 2020.
Thresholds	
Document	Submitted with application?
Covenant or Legal Agreement	Yes. An unsigned and undated draft has been submitted.
Quality Audit	Yes. 'Quality Audit' dated October 2020.
Drainage Impact Assessment	Yes. Notwithstanding the provisions of 'Stormwater Impact Assessment', above, subsection 5 of the Engineering Planning Report and 'Stage 1 Surface Water Audit' dated September 2020.
Assessment of Flooding Risk	Yes. 'Site -Specific Flood Risk Assessment' (SSFRA) dated 10 th December 2020.
Archaeological Impact Assessment and Method Statement	Yes. 'Archaeological Assessment' dated October 2020.
Architectural Heritage Impact Assessment	Yes. 'Architectural Heritage Impact Assessment' (AHIA) dated 24 th November 2020.

⁵⁷ I note that a CCIA dated May 2022 was submitted as part of the further information response to the planning authority under D21A/1041, the permitted application on site (ABP-314309-22).

Ecological Impact Assessment	Yes. 'Ecological Statement' dated December 2020.
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13.210. Having regard to the foregoing, I consider that the planning application is deficient in terms of the absence of a specific SIA and CCIA, and there is a lack of clarity in relation to green roof detail. Notwithstanding, having regard to the nature, scale, and location of the proposed development and the extent of relevant supporting documentation, I consider that these issues could be appropriately addressed by way of suitable compliance conditions.

Archaeology

13.211. Some submissions state that the subject site is within the boundary of a former Magdalene laundry and investigations/archaeological examination should be carried out to ensure the site is not a burial ground.

13.212. The application was accompanied by an Archaeological Assessment. Both a desktop study and a field inspection were carried out. No previous archaeological investigations have taken place within the site and nothing of archaeological significance was identified during previous archaeological monitoring immediately to the east. The Assessment notes the previous use of the hospital as a Magdalen laundry on pages 8 and 10. No features of archaeological potential were identified during the field inspection. The Assessment notes that the site has previously been subject of disturbance i.e. the construction of the car park, but that it remains possible that ground disturbance associated with the proposed development may adversely impact on unrecorded archaeology. Monitoring of ground disturbances is recommended.

13.213. There are no indications of any burial ground on site, and the site has previously been subject of construction works. I agree with the conclusion of the Archaeological Assessment that monitoring of ground disturbance by a suitably qualified archaeologist would be an appropriate mitigation measure. This could be included as a condition should the Commission decide to grant permission.

Devaluation of Property

13.214. The devaluation of property in the vicinity is referenced in some of the submissions received. I note the concerns raised. However, having regard to the major town centre zoning of the lands and the conclusions reached in this planning assessment, I am satisfied that the proposed development would not seriously injure the amenities of the area to such an extent that would adversely affect the value of property in the vicinity.

Issues Subject of Material Contravention / Limited Agenda Oral Hearing

13.215. For clarity, having regard to the provisions of this planning assessment, I consider that the following issues arising from the planning application would comprise material contraventions of the DLRCDP 2022-2028:

- (a) Subsection 12.8.5.4 (Roof Gardens) of the DLRCDP 2022-2028 states 'For larger apartment schemes in excess of 50 units no more than 30% of the communal open space shall be provided by way of a roof garden'. As proposed, 49.4% of the communal open space would be provided by way of roof gardens / roof terrace.
- (b) Table 12.11 (Balconies / Winter Gardens: Minimum Private Open Space Standards for Apartment Developments) of the DLRCDP 2022-2028 sets out minimum requirements in line with the Apartment Guidelines (2020), and it is stated that private amenity space for apartments shall accord with these requirements. Fifteen of the proposed apartment units would not provide any private open space.

13.216. To grant the application as submitted would, in my opinion, comprise a material contravention of the DLRCDP 2022-2028. If the Commission is of a mind to grant permission, as it is precluded from seeking further information and recirculating same to relevant parties because it is an SHD application, the Commission may consider addressing them by way of a limited agenda oral hearing. This is a decision for the Commission in line with section 18 of the Planning & Development (Housing) Residential Tenancies Act, 2016 (as amended). Notwithstanding, given the substantive recommended reason for refusal as set out in section 17, I recommend that permission be refused for the stated reason without a limited agenda oral hearing being held.

14.0 Appropriate Assessment (AA) Screening

- 14.1. AA screening has been carried out in Appendix 4 to this report.
- 14.2. In accordance with section 177U of the Planning & Development Act, 2000 (as amended), and on the basis of the information considered in this AA screening, I conclude that the proposed development individually or in combination with other plans or projects would not be likely to give rise to significant effects on South Dublin Bay and River Tolka Estuary SPA, or South Dublin Bay SAC, or any other European site, in view of the conservation objectives of those sites, and AA (and submission of a NIS) is not therefore required.
- 14.3. This determination is based on:
- scientific information provided in the applicant's AA Screening Report.
 - the nature, scale, and location of the proposed residential development in a zoned area on fully serviced lands.
 - the lack of direct hydrological connection between the proposed development and European sites.
 - the unsuitability of the subject site in terms of ex-situ foraging habitat.
- 14.4. No mitigation measures aimed at avoiding or reducing impacts on European sites were required to be considered in reaching this conclusion.

15.0 Water Framework Directive (WFD)

- 15.1. The provisions of appendix 5 apply to this section.
- 15.2. The site is located on a brownfield serviced site within the built-up urban area of Dun Laoghaire. Dublin Bay is approximately 110 metres to the north with Crofton Road, the Dart line, and a section of the harbour between the site and the coastal waterbody. Surface water would discharge to the Bay via the public surface water network after SuDS treatment on site. There are no watercourses on or adjacent to the site.
- 15.3. No specific water deterioration concerns were raised in the submissions received.

15.4. I have assessed the proposed SHD and have considered the objectives as set out in Article 4 of the WFD which seek to protect and, where necessary, restore surface and ground water waterbodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration. Having considered the nature, scale, and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any surface and/or groundwater water bodies either qualitatively or quantitatively.

15.5. The reasons for this conclusion are as follows:

- the mitigation measures contained within the documentation submitted with the application e.g. CEMP and CMP,
- specific technical conditions are recommended by DLRCC's Drainage Planning Section could be attached should permission be granted,
- the absence of any EPA watercourses within approximately 900 metres of the location of any construction works on site,
- the presence of a public combined sewer to accommodate the foul discharge from the proposed development, and,
- the presence of a public surface water sewer to accommodate the proposed surface water discharge.

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

16.0 Recommendation

16.1. Having regard to the foregoing, I recommend that permission be refused for the development, as proposed, based on the reasons and considerations set out below.

17.0 Reasons and Considerations

1. Section 17.6 (Placemaking and creating vitality) of Appendix 17 (Interim Dún Laoghaire Urban Framework Plan) of the Dun Laoghaire Rathdown County Development Plan 2022-2028 states that when considering development proposals intensification should be promoted primarily through compact urban form rather than through tall buildings, that a key objective is to protect the unique skyline, and that it is an objective that the hierarchical relationship between established landmark buildings and new infill development be preserved and maintained. The proposed development, up to thirteen storeys in height, would present a new and significant structure within the urban skyline which would not be consistent with these provisions. In addition, although the Dun Laoghaire Rathdown County Development Plan 2022-2028 does not set out specific densities, the proposed density, at 313uph, significantly exceeds the general maximum density of 250uph envisaged in an urban neighbourhood such as this as set out in the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024), and the proposed development does not meet the requirements for an exemption to this as per subsection 3.3.6 (a) of the Guidelines. Therefore, the proposed development would contravene the provisions of Appendix 17 (Interim Dún Laoghaire Urban Framework Plan) of the Dun Laoghaire Rathdown County Development Plan 2022-2028, it would be contrary to Ministerial guidelines issued to planning authorities under section 28, would collectively comprise overdevelopment of the site, and would be contrary to the proper planning and sustainable development of the area.

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

Anthony Kelly
Senior Planning Inspector
8th June 2026

Appendix 1 – List of Observers

1. 6CT Core Ventures Ltd.
2. Adrian Fernandez Fontenla
3. Aisling Gorby
4. Alan Maher
5. Alison Blake
6. Anne Kinsella
7. Anthony & Geraldine Tyrrell
8. Aoife Noonan
9. Bernie Chamberlaine
10. Camilla Collins
11. Catherine Nalty
12. Cathy & Patrick Hillery
13. Charlemont Residents Association
14. Charles & Camilla Collins
15. Ciara Doran
16. Cristian Costache
17. Crofton Buildings Management CLG
18. Daniel & Mary Sheehan
19. Declan O'Regan
20. Deirdre Cahalane
21. Deirdre McAlpin & Joseph Patrick O'Hara
22. Deirdre Roche
23. Denis Hanley
24. Desmond Doran
25. Donal Quill

26. Dorothy Hannon
27. Dún Laoghaire Central Residents Association c/o Frances Kelly, Chair
28. Eoin Dorgan
29. Evan Aitken
30. Fergal MacCabe
31. Frances Fletcher
32. Frank McDonald
33. Gillian & Richard Goodbody
34. Helen Shenton
35. Henning Ringholz
36. Ivan Warner
37. Ivan & Katherine Dempsey
38. John Conway and Louth Environmental Group
39. John Murphy
40. John & Eithne Loughrey
41. John & Evelyn Rigby
42. Jonathan Nolan
43. Cllr. Justin Moylan
44. Katherine Aylmer
45. Larry & Hazel Masterson
46. Lorna Callanan
47. Lorraine McCormack, Joseph McCormack, & Desmond Fitzhugh
48. Maria Travers
49. Marie & Richard Lawton
50. Marie-Claire Kerrin
51. Mark Kelly

52. Mary Dooley
53. Matthew & Irene Gallagher
54. Michael Grehan
55. Michelle Berkery
56. Nadine Smith
57. Neil Manifold
58. Niamh McGowan
59. Pat & Joan Mulcahy
60. Paul Collins
61. Patricia Stewart
62. Patrick & Lesley O'Mara
63. Patrick McGowan
64. Peter Lynch
65. Peter Magee
66. Ricardo Bara
67. Richard Boyd Barrett, TD
68. Robert & Kate Dobbyn
69. Rory Carroll & Ligimat Perez
70. Save Our Seafront c/o Davnet Cotter, Secretary
71. Sandeep Singh
72. Sean & Mary Dorgan
73. Stephen Pike
74. Stephanie Bourke
75. Tal & Maya Yeshurun
76. The Hanley Family
77. Thomas Lubliner

78. Violetta & Mario di Bucchianico
79. William Byrne

Appendix 2 – Environmental Impact Assessment (EIA) Pre-Screening

Case Reference	ABP-320208-24
Proposed Development Summary	SHD comprising 102 BTR apartments in two buildings up to thirteen and nine storeys respectively, a café, and ancillary works
Development Address	Lands at St. Michael's Hospital Car Park, Crofton Road, Dún Laoghaire, Co. Dublin
	In all cases check box or leave blank
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (For the purposes of the Directive, 'project' means: - The execution of construction works or of other installations or schemes, - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)	☒ Yes, it is a 'Project'. Proceed to Q.2 ☐ No, no further action required.
2. Is the proposed development of a CLASS specified in Part 1 Schedule 5 of the Planning & Development Regulations, 2001 (as amended)?	
☐ Yes, it is a Class specified in Part 1.	State the Class here
☒ No, it is not a Class specified in Part 1. Proceed to Q3.	
3. Is the proposed development of a CLASS specified in Part 2 Schedule 5 Planning & Development Regulations, 2001 (as amended), OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?	
☐ No, the development is not of a Class specified in Part 2 Schedule 5 or a prescribed type of proposed road development under Article 8 of the Roads Regulations, 1994. No Screening required.	

☐ Yes, the proposed development is of a Class and meets/exceeds the threshold. EIA is mandatory. No Screening required.	
☒ Yes, the proposed development is of a Class but is sub-threshold. Preliminary examination required OR if Schedule 7A information submitted proceed to Q4.	Schedule 5 Part 2 Class 10 (b) (i) refers to 'Construction of more than 500 dwelling units'. Schedule 5 Part 2 Class 10 (b) (iv) refers to '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. (In this paragraph, "business district" means a district within a city or town in which the predominant land use is retail or commercial use.)' Schedule 5 Part 2 Class 14 refers to 'Works of demolition carried out in order to facilitate a project listed in Part 1 or Part 2 of this Schedule where such works would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7'.
4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?	
Yes ☒	Screening determination required.
No ☐	

Inspector: _____

Date: _____

Appendix 3 – Environmental Impact Assessment (EIA) Screening Determination

A. Case Details		
An Coimisiún Pleanála Case Reference	ABP-320208-24	
Development Summary	SHD comprising 102 BTR apartments in two buildings up to thirteen and nine storeys respectively, a café, and ancillary works	
Sub-threshold development class referred to under Schedule 5 of Planning & Development Regulations, 2001 (as amended), or Article 8 of Roads Regulations 1994	Schedule 5 Part 2 Class 10 (b) (i) refers to ‘Construction of more than 500 dwelling units’. Schedule 5 Part 2 Class 10 (b) (iv) refers to ‘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. (In this paragraph, “business district” means a district within a city or town in which the predominant land use is retail or commercial use.)’ Schedule 5 Part 2 Class 14 refers to ‘Works of demolition carried out in order to facilitate a project listed in Part 1 or Part 2 of this Schedule where such works would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7’.	
	Yes / No / N/A	Comment (if relevant)
1. Was a Screening Determination carried out by the planning authority?	No	No. Subsection 11.21 of the DLR Chief Executive’s Report notes that the Board is the competent authority for EIA of SHD applications.

2. Has Schedule 7A information been submitted?	Yes	Yes. The application is accompanied by an 'EIA Screening Report' dated January 2021. Paragraph 1.2 of this states 'The purpose of this report is to provide An Bord Pleanála with the information required under Schedule 7A of the Planning and Development Regulations 2001, as amended, to enable the Board to determine in light of the criteria set out under Schedule 7 of these regulations whether the proposed development is likely to have significant effects on the environment, and that the application can be determined without the submission of an Environmental Impact Assessment Report (EIAR)'.
3. Has an AA Screening Report or NIS been submitted?	Yes	An 'Appropriate Assessment Screening Report' (AA Screening Report) dated December 2020 was submitted with the application. See section 14.0 and appendix 4 of this IR.
4. 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	
5. Have any other relevant assessments of the effects on the environment which have a significant bearing on the project been carried out pursuant to other relevant Directives – for example SEA	Yes	The AA Screening Report was carried out on foot of the Habitats (92/43/EEC) and Birds (79/409/EEC as amended by 2009/147/EC) Directives. A number of other relevant assessments have been carried out by public bodies pursuant to other Directives, e.g. Strategic Environmental Assessment carried out by DLR as part of the DLRCDP 2022-2028, on foot of Directive 2001/42/EC.

B. Examination	Yes / No / Uncertain	Briefly describe the nature and extent and Mitigation Measures (where relevant) (having regard to the probability, magnitude (including population size affected), complexity, duration, frequency, intensity, and reversibility of impact) Mitigation measures – Where relevant specify features or measures proposed by the applicant to avoid or prevent a significant effect.	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 the existing surroundings or environment?	Yes	The main feature of significance in this regard is the height of Building 01 which would be approximately five storeys higher than the adjoining Harbour View apartment development. The additional height is contained within a relatively narrow structure and a LVIA has been prepared. The development is otherwise relatively similar to the height, mass, and scale of development in the vicinity to the south and east. There is other development in Dun Laoghaire further to the southeast which reaches a similar or greater height. Residential development is very common in the vicinity and compact development within built-up areas is encouraged in the planning framework, in particular brownfield sites in proximity to good public transport infrastructure.	No
1.2 Will construction, operation, decommissioning or demolition works cause physical changes to the locality (topography, land use, waterbodies)?	Yes	Demolition is limited to an unoccupied two-storey detached house. The land use would change from a surface car park to a residential development. Residential development is very common in the area. There would be negligible changes to the topography of the site, and 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?	Yes	The loss of on-site natural resources or biodiversity as a result of the proposed development is negligible. Construction materials would be typical for an urban development of this nature and scale. There would be 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 substance which would be harmful to human health or the environment?	Yes	Construction activities would require use of potentially harmful materials e.g. hydrocarbons, however these are typical of construction sites. A Construction Environmental Management Plan (CEMP) is submitted with the application. No operational phase impacts in this regard are anticipated.	No
1.5 Will the project produce solid waste, release pollutants or any hazardous / toxic / noxious substances?	Yes	This is a standard residential development. Typical construction phase activities would be carried out resulting in, for example, noise, dust, and waste materials. These would be temporary and localised. Both a CEMP and a Construction & Demolition Waste Management Plan are submitted with the application. During the operational phase foul effluent would be discharged to the public system. An Operational Waste Management Plan has also been submitted.	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, groundwater, coastal waters or the sea?	No	This is a standard residential development and no significant risk is identified on this brownfield site. Construction phase works would be carried out in line with the CEMP which contains relevant mitigation measures. In the operational phase, surface water from the site would be discharged to the Irish Sea at the West Pier after appropriate SuDS treatment. A standard condition that surface water disposal shall comply with the requirements of the planning authority can be attached to any grant of permission, or the recommended conditions of the planning authority as per the DLR Chief Executive's Report could be attached. Foul discharge would be to the public foul sewer. This issue has also been addressed in the AA Screening and WFD sections (sections 14.0 and 15.0) and appendices 4 and 5.	No
1.7 Will the project cause noise and vibration or release of light, heat, energy or electromagnetic radiation?	Yes	The development is a standard residential development. There is potential for construction activity to give rise to noise and vibration emissions. Such emissions will be localised and short term in nature, and their impacts would be suitably mitigated by measures contained in the CEMP. Operational public lighting could be conditioned to be agreed with the planning authority. Artificial lighting within the apartment buildings is unavoidable and would be typical of any residential development.	No

1.8 Will there be any risks to human health, for example due to water contamination or air pollution?	No	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	There would be no particular risk having regard to the nature, type, and scale of development. The site has been subject of a 'Site Specific Flood Risk Assessment' (SSFRA) dated 10 th December 2020 which did not raise any concern. There are no Seveso sites within the county according to the DLRCDP 2022-2028.	No
1.10 Will the project affect the social environment (population, employment)	Yes	The proposed development would result in a change of use of the site and an increase in population. There would be an increase in employment during the construction phase with limited operational phase employment in the café and in the management of the SHD. Notwithstanding concerns expressed in submissions about the nature of the tenure i.e. BTR, increased population is a positive impact that would provide additional support for existing services in the area.	No
1.11 Is the project part of a wider large scale change that could result in cumulative effects on the environment?	No	The proposed development is a stand-alone development of a brownfield site located in an established urban area. It is generally consistent with the type of development encouraged in the planning framework i.e. development of a brownfield site within a built-up urban footprint and in close proximity to good public transport infrastructure.	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: (i) European site (SAC/SPA/pSAC/pSPA), (ii) NHA/pNHA, (iii) Designated Nature Reserve, (iv) Designated refuge for flora or fauna, (v) 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.	No	The nearest area of natural heritage designation is Dalkey Coastal Zone and Killiney Hill pNHA approximately 530 metres to the southeast of the site. The closest European sites are South Dublin Bay and River Tolka Estuary SPA approximately 600 metres to the northwest and South Dublin Bay SAC approximately 1.1km to the west. All distances are in a direct line It has been concluded after AA screening (section 14.0 and appendix 4) that there is no potential for likely significant effects on any European sites. I am satisfied that there is no potential for significant effects on the pNHA, to which there is no source-pathway-receptor link. There are no designated nature reserves, designated refuges for flora or fauna, or places, sites, or features of particular or notable ecological interest in the area. The site is a surface car park in the built-up urban area.	No

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 affected by the project?	No	The subject site is a brownfield surface level car park within the built-up footprint of Dun Laoghaire in an area zoned 'Major Town Centre'. Soft landscaping on site is minimal. An Ecological Statement submitted with the application includes a number of statements referencing the poor habitat value on site for birds and mammals, including bats.	No
2.3 Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?	Yes	There are a number of protected structures adjacent to the site (Charlemont Terrace and Charlemont Avenue) and in proximity e.g. Royal Irish Yacht Club and Mallin Railway Station (Dun Laoghaire Dart). The site is not subject of Architectural Conservation Area (ACA) or candidate ACA (cACA) designation but the Dun Laoghaire Harbour/Dun Laoghaire Seafront cACAs are located on the opposite side of Crofton Road. Map 3 of the Plan shows that there are objectives to preserve views back towards the town from the ends of both the East and West Piers. The impact of the proposed development on the architectural and landscape heritage of the area, including its height as referenced in paragraph 1.1, is addressed in documentation submitted with the application such as the AHIA and LVIA. While this general issue may be a significant issue in the context of the application, it does not, of itself, trigger a requirement for EIA.	Yes

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?	Yes	While the site is only approximately 110 metres from the Irish Sea there would be minimal interaction between them. Interaction would be restricted to surface water discharge from the public surface water network at the West Pier, of which the subject site would contribute a minimal amount. Surface water from the site that would be discharged to the public surface water network would do so after SuDS treatment.	No
2.5 Are there any water resources including surface waters, for example: rivers, lakes/ponds, coastal or groundwaters which could be affected by the project, particularly in terms of their volume and flood risk?	No	The closest EPA-identified surface watercourse is Monkstown Stream approximately 900 metres to the west. This is too far away to be affected. Surface water discharges to the public network which discharges to the Irish Sea at the West Pier. There would be no impact to this as per the AA Screening and WFD sections of this IR. Mitigation measures contained within the CEMP would further ensure this, though this was not taken into consideration in the AA Screening. A SSFRA was prepared which expressed no concern in relation to flood risk.	No
2.6 Is the location susceptible to subsidence, landslides or erosion?	No	There is no evidence of these risks.	No

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?	No	Notwithstanding its designation as a national road (N31), Crofton Road is part of the local urban road network. In my opinion it is not a 'key' transport route. No significant contribution to traffic congestion is anticipated to arise from the proposed development, though issues in relation to displaced car parking from the existing car park and the minimal provision of proposed on-site spaces are referenced in submissions. However, this is a normal issue raised in planning applications and is not an 'environmental' issue in my opinion. The site is very well served by public transport which supports a reduction in the number of car parking spaces provided.	No
2.8 Are there existing sensitive land uses or community facilities (such as hospitals, schools etc) which could be affected by the project?	Yes	The adjacent hospital site has itself been subject of planning applications, though not on the scale of the SHD subject of this application. Other substantial developments in the vicinity of the hospital site have been carried out, such as the Niche Living BTR SHD application (ABP Ref. ABP-304249-19) approximately 100 metres to the east. It must be taken into consideration that the site currently comprises a brownfield car park, zoned MTC, and in very close proximity to very good public transport infrastructure. Appropriate development of these types of locations is encouraged by the planning framework. I note the CEMP includes, among other mitigation, dust control measures. In the event of a grant of permission a condition relating to submission of same for agreement with the planning authority could be conditioned. In addition, the applicant's Construction Management Plan (CMP) states that the development will comply fully with National Guidelines for the Prevention of Nosocomial Invasive Aspergillosis During Construction/Renovation Activities (a particular issue for immune suppressed patients).	No

3. Any other factors that should be considered which could lead to environmental impacts			
3.1 Cumulative Effects: Could this project together with existing and/or approved development result in cumulative effects during the construction/operation phase?	No	I have looked at both the DLR and ACP websites and, as of 8th June 2026, I do not consider that there are any permitted developments in the near vicinity of the subject site that could act in-combination with the proposed development to have undue cumulative effects during either the construction or operational phases. I note the proposed Part 8 development (PC/H/01/2026) for the demolition at 10 Eblana Avenue and 10 Sussex Street and the construction of 55 apartments and four houses. Given the distances between the two sites (approximately 100 metres), the relative scale of developments, the different construction and operational phase accesses, and that a Natura Impact Statement is not required for either development, I do not consider that significant cumulative effects would arise should both developments be permitted and constructed.	No
3.2 Transboundary Effects: Is the project likely to lead to transboundary effects?	No	N/A	No

3.3 Are there any other relevant considerations?	Yes	The John Conway and Louth Environmental Group submission raises concern about EIA. It states that the EIA Screening Report does not include all required information. However, the omission(s) referred to have not been identified in the submission. It also states that the EIA Screening Report does not give any consideration to the nature/extent of excavation/rock-breaking works, including its impact on human health. The proposed development does not include a basement car park. Excavation is restricted to standard construction phase works. The Engineering Planning Report makes no reference to rock breaking and the ‘Proposed Foundation Sections Buildings 01 and 02’ drawing (drg. no. D1855-S-03) does not illustrate any alteration to the existing estimated rock profile. Immune suppressed patients at the hospital are referenced in paragraph 2.8 of this appendix.	No
C. Conclusion			
No real likelihood of significant effects on the environment	☒	EIAR not required	
Real likelihood of significant effects on the environment	☐	EIAR required	
D. Main Reasons and Considerations			

Having regard to:

1. the criteria set out in schedule 7, in particular:

(a) the relatively limited nature and scale of the proposed SHD, which is substantially below the thresholds in respect of Schedule 5 Part 2 Class 10 (b) (i) (number of dwelling units), Schedule 5 Part 2 Class 10 (b) (iv) (site area), and Schedule 5 Part 2 Class 14 (demolition works), of the Planning & Development Regulations, 2001 (as amended),

(b) the site location on a brownfield site of very limited biodiversity value, within the built-up urban area on major town centre zoned land, in close proximity to very good public transport infrastructure, and served by public foul (combined) and surface water sewers,

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

(d) the location of the development outside of any sensitive location specified in article 299C (1)(a)(v) of the Planning & Development Regulations, 2001 (as amended).

2. The results of other relevant assessments of the effects on the environment submitted by the applicant.

3. The features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise have been significant effects on the environment.

I conclude that the proposed development would not be likely to have significant effects on the environment, and that an environmental impact assessment report (EIAR) is not required.

Inspector: _____

Date: _____

Approved (DP/ADP): _____

Date: _____

Appendix 4 – Appropriate Assessment (AA) Screening

Screening for Appropriate Assessment (AA) Test for likely significant effects ABP-320208-24	
Step 1: Description of the project and local site characteristics	
Brief description of project	SHD comprising 102 BTR apartments in two buildings up to thirteen and nine storeys respectively, a café, and ancillary works
Brief description of development site characteristics and potential impact mechanisms	The site primarily comprises a surface car park within the built-up urban area of Dun Laoghaire. The site has a gentle slope in a southerly direction. Dun Laoghaire Harbour is on the opposite side of Crofton Road and the Dart line to the north with a distance of approximately 110 metres between the site and the water. There is no other surface watercourse on or adjacent to the site. Foul water is to a public combined system and surface water is to a public surface water system, after on-site SuDS. The surface water sewer discharges to the Irish Sea at the West Pier.
Screening report?	An 'Appropriate Assessment Screening Report' (AA Screening Report) dated December 2020 was submitted with the application.
Natura impact statement (NIS)?	None submitted.
Relevant submissions	Although 'Nature Conservation' was a subheading in the observation from the Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media, it did not contain any reference to AA. AA-related issues were briefly cited in two submissions received. The Alison Blake submission references the SAC status of Dublin Bay and states that 'it is essential to protect the species we have there'. The species referenced are all bird species, however these are not qualifying interest (QI) species of the SAC because SACs are not designated for bird species. The submission appears to confuse special conservation interest (SCI) species of SPAs with Birdwatch Ireland's Birds of Conservation Concern in Ireland. The second submission referencing AA is from John Conway and Louth Environmental Group. This considers that the AA Screening Report contains lacunae and it appears to rely on mitigation measures to screen out Stage 2 AA.

	Subsection 11.21 of the DLR Chief Executive's Report notes that the Board is the competent authority for AA of SHD applications.
Step 2: Identification of relevant European sites using the source-pathway-receptor model	
Subsection 3.4 of the AA Screening Report states that all SACs and SPAs within 15km of both the subject site and of the foul outfall point at Ringsend wastewater treatment plant (WWTP) were considered with regard as to whether they were within the zone of interest of the proposed development. Nineteen European sites, eleven SACs and eight SPAs, are set out in table 1 of the AA Screening Report as being within 15km of either location. I note that North-west Irish Sea SPA (site code 004263) is not included in the AA Screening Report. This is because it was not designated as an SPA until 2023, after the AA Screening Report was written. North-west Irish Sea SPA is approximately 2.2km north east of Ringsend WWTP and approximately 5.5km north of the subject site. The AA Screening Report considered the following to determine the potential for significant impacts as a result of the proposed development: habitat loss or alteration, habitat/species fragmentation, disturbance and/or displacement of species, changes in population density, and changes in water quality and resource. I agree that these are the relevant issues to determine the potential for significant impacts. The potential for likely significant effects on the nineteen European sites during the construction phase is considered to be a result of silt and other pollutants to air or waterbodies, waste generation, and increased noise, dust, and lighting. During the operational phase it is considered to be surface and foul water discharge and increased lighting and human presence. I agree that these are the elements of the subject development that could have significant effects. However, to the operational phase I would add building height, in terms of the proximity to the water and the potential for bird strike. Table 2 of the AA Screening Report sets out the reasons why there is no potential for significant effects on the SACs and SPAs and concludes that no further assessment is required for any of the European sites. While I concur with the general conclusions of the AA Screening Report, I do not consider that European sites within 15km of Ringsend WWTP are relevant to consideration for this proposed development. The proposed development would discharge foul water to the public combined system which is treated at Ringsend WWTP. The contribution the proposed development would make to the volumes being treated in Ringsend is effectively immaterial in the context of the scale of foul input into the WWTP. In addition, the treated discharge outfalls to the sea which has a substantial dilution effect. I do not consider it likely that foul effluent from the proposed SHD, to the public system, would have any significant effect. For completeness I have set out below my consideration of the European sites most likely to be potentially affected by the proposed development. As noted above I do not consider Ringsend WWTP to be relevant to this. I also consider that including every European site within a 15km radius of the	

subject site is unnecessarily precautionary given the relatively limited scale of the proposed development and the presence of public infrastructure. For clarity, I have considered North-west Irish Sea SPA, but I do not consider there is any possibility of this SHD having any likely significant effect on it.

European site (code)	Special conservation interests (SCIs) / Qualifying interests (QIs)	Distance from proposed development	Ecological connections	Consider further in screening Y/N?
South Dublin Bay and River Tolka Estuary SPA (004024)	13 no. waterbirds plus wetlands	Approximately 600 metres to the north west	Indirect hydrological (surface water outfall)	Yes
South Dublin Bay SAC (000210)	Mudflats and sandflats not covered by seawater at low tide [1140] Annual vegetation of drift lines [1210] Salicornia and other annuals colonising mud and sand [1310] Embryonic shifting dunes [2110]	Approximately 1.1km to the west	Indirect hydrological (surface water outfall)	Yes

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

AA Screening Matrix

Site name (code) and SCIs/QIs	Possibility of significant effects (alone) in view of the conservation objectives of the site	
	Impacts	Effects
South Dublin Bay and River Tolka Estuary SPA (004024)	<u>Direct impacts</u> There are no direct impacts in terms of habitat loss or alteration, or	

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]	habitat/species fragmentation. <u>Indirect impacts</u> - <i>disturbance and/or displacement of species</i>	Subsection 3.7.4 of the applicant's AA Screening Report states that the proposed development does not have the capacity to cause significant disturbance and/or displacement to European sites because of the distances involved and lack of suitable ex-situ habitat for SCI species. I agree that there would be no likely significant impact on this SPA such that disturbance or displacement of SCI species would arise during the construction phase. The site is approximately 600 metres from the SPA. Although it is in close proximity to the coastline/water it is located within the built-up urban area with substantial built development immediately adjoining. I consider that the separation distance involved, the extent of existing built development in the vicinity, the relatively limited scale of the proposed development, and the absence of any suitable foraging habitat on site or in the immediate vicinity would ensure that the construction phase would not have any likely significant effect in terms of the disturbance or displacement of SCI species. The operational phase would have negligible impact in terms of additional lighting or increased human presence in my opinion given its location within the built-up area of Dun Laoghaire. The additional building height would be a notable addition to the skyline. However I note that the proposed higher element of proposed Building 01 is relatively narrow and buildings of this height are in place elsewhere in relative proximity to the SPA. I also note the content of the applicant's Ecological Statement which states 'No medium or high collision risk species were recorded during the flight line surveys of the Site ... given the general heights of the surrounding buildings, it is not considered that the Proposed Development will constitute a significant collision risk for bird species' (page 5) and 'collision risk is not predicted to present a
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	significant risk to bird species at this site' (page 8). I agree. I do not consider that there is any likely significant impact on the SCI species as a result of disturbance or displacement of species. Given that there would be no likely significant impact on the SCI species from disturbance or displacement, as above, or as a result of changes to water quality and resource, as below, I do not consider the proposed development would have a likely significant effect on population density. The applicant's AA Screening Report contains a 'Hydrological and Hydrogeological Qualitative Risk Assessment' (HHQRA) as appendix 1. This considers potential construction phase sources of short-term contamination e.g. leakage of hydrocarbons and silt/cement contaminated surface water runoff, and potential operation phase sources. These are much less impactful e.g. leakage of hydrocarbons from car park/road. There is no direct open-water pathway between the site and Dublin Bay. The bay is on the opposite side of Crofton Road with the Dart line and the grounds of the Royal Irish Yacht Club between the site and the water. There is however a surface water sewer connection. In relation to worst case construction phase contamination (a 1000 litres hydrocarbon leak), page 17 of the AA Screening Report quotes the HHQRA as concluding 'there would be no perceptible risk to water requirements for the Natura sites in Dublin Bay based on loading, mixing levels and high level of dilution in Dublin bay'. During the operational phase the potential for sediment runoff is considered to be low with minimal potential for hydrocarbon leakage. The HHQRA states that, even with
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		the exclusion of SuDS from the operational stage 'there is no likely exceedance of water quality objectives ...' I consider that the proposed development would have no likely significant effect on the water quality and resource of the SPA.
	Likelihood of significant effects from proposed development (alone)? No	
	If no, is there likelihood of significant effects occurring in combination with other plans or projects? The potential for in-combination effects is considered in sub-section 3.8 of the applicant's AA Screening Report. It was considered that there are no means for the proposed development to act in-combination with other plans and projects, that would cause any likely significant effects on any European sites. I note that the consideration of other plans and projects in the AA Screening Report is now out-of-date. The DLRCDP 2022-2028 is now the county development plan in place. I do not consider that this would have any particular impact on in-combination effects. I have looked at both the DLR and ACP websites and, as of 8th June 2026, I do not consider that there are any permitted developments in the near vicinity of the subject site that could act in-combination with the proposed development to have an adverse impact. I note the proposed Part 8 development (PC/H/01/2026) for the demolition at 10 Eblana Avenue and 10 Sussex Street and the construction of 55 apartments and four houses. Given the distances between the two sites (approximately 100 metres) and the relative scale of developments I do not consider that there would be any likely significant cumulative effects such that would affect Natura 2000 sites, should both developments be permitted and constructed. I consider that the conclusion reached in the applicant's AA Screening Report remains applicable.	
	Impacts	Effects
South Dublin Bay SAC (000210) Mudflats and sandflats not covered by seawater at low tide [1140]	<u>Direct impacts</u> There are no direct impacts in terms of habitat loss or alteration, or habitat/species fragmentation.	

Annual vegetation of drift lines [1210] Salicornia and other annuals colonising mud and sand [1310] Embryonic shifting dunes [2110]	<u>Indirect impacts</u> - <i>disturbance and/or displacement of species</i> - <i>changes in population density</i> - <i>changes in water quality and resource</i>	The SAC is designated for habitats, not species. As above. As per South Dublin Bay and River Tolka Estuary SPA. In addition, conservation objectives are only set out for [1140] and I note that water quality is not specifically cited as an attribute, measure, or target in relation to this.
	Likelihood of significant effects from proposed development (alone)? No	
	If no, is there likelihood of significant effects occurring in combination with other plans or projects? As per South Dublin Bay and River Tolka Estuary SPA.	
Further Commentary I note that the applicant's AA Screening Report, given that it is dated December 2020, is out of date. The European site network in the wider area has expanded with the designation of the North-west Irish Sea SPA in 2023. Notwithstanding, in my opinion the designation of this SPA would not affect the proposed development given the distance to it across the sea. I consider that the conclusion of the AA Screening Report i.e. that Stage 2 AA is not required, remains valid. Two submissions include references to AA: • The Alison Blake submission appears to conflate the SAC, the SPA, and Birdwatch Ireland's Birds of Conservation Concern. Notwithstanding, I consider the content of this appendix addresses the broad concern about bird species. • The John Conway and Louth Environmental Group submission refers to two issues: lacunae and reliance on mitigation. The nature and extent of excavation and rock-breaking works is cited in terms of lacunae. The proposed development does not include a basement car park. Excavation is restricted to standard construction works such as building foundations and subsurface attenuation infrastructure. I am satisfied that these are covered by standard construction phase works as per subsection 3.7 of the AA Screening Report. The Engineering		

Planning Report makes no reference to rock breaking and the 'Proposed Foundation Sections Buildings 01 and 02' drawing (drg. no. D1855-S-03) does not illustrate any alteration to the existing estimated rock profile.

The submission also states that it appears that mitigation is being relied on to screen out the need for Stage 2 AA. The submission refers to the Outline Construction Management Plan, as opposed to the AA Screening Report. The submission does not expand upon what mitigation is being relied upon. The AA Screening Report, in its conclusion, states 'In carrying out this AA screening, mitigation measures have not been taken into account. Standard best practice construction measures which could have the effect of mitigating any effects on any European Sites have similarly not been taken into account'. I accept that mitigation measures have not been taken into consideration. I also note that there were policies of the DLRCDP 2016-2022 that require the use of SuDS e.g. policies EI3 (Surface Water Drainage and Appropriate Assessment) and EI8 (Sustainable Drainage Systems). These indicate that SuDS measures are mandatory for new development other than for reasons of the protection of European sites. The judgement in CJEU Case C-721/21 effectively stated that SuDS measures which remove contaminants can be taken into consideration at screening stage where such features have been incorporated into that project as standard features. Similar policies are incorporated into the current DLRCDP 2022-2028 e.g. policy objective EI6 (Sustainable Drainage Systems). I am satisfied that the development does not apply on mitigation measures to screen out the need for Stage 2 AA.

Finally, I note that the Uisce Éireann observation on the file, which states that the applicant had been issued a confirmation of feasibility for connection to the network, is dated 10th February 2021. I checked the publicly available Uisce Éireann website on 8th June 2026. The Wastewater Treatment Capacity Register stated that spare capacity was available in Ringsend WWTP, indicating that capacity remains available for the proposed development.

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

I conclude that the proposed development (alone or in combination with other plans and projects) would not result in likely significant effects on any European site. No further assessment is required for the project. No mitigation measures are required to come to these conclusions.

Screening Determination

Finding of no likely significant effects

In accordance with section 177U of the Planning & Development Act, 2000 (as amended), and on the basis of the information considered in this AA screening, I conclude that the proposed development individually or in combination with other plans or projects would not be likely to give rise to significant effects on South Dublin Bay and River Tolka Estuary SPA or South Dublin Bay SAC, or

any other European site, in view of the conservation objectives of those sites, and AA (and submission of a NIS) is not therefore required.

This determination is based on:

- scientific information provided in the applicant's AA Screening Report.
- the nature, scale, and location of the proposed residential development in a zoned area on fully serviced lands.
- the lack of direct hydrological connection between the proposed development and European sites.
- the unsuitability of the subject site in terms of ex-situ foraging habitat.

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

Appendix 5 – Water Framework Directive (WFD)

WFD Impact Assessment Stage 1: Screening			
Step 1: Nature of the Project, the Site and Locality			
An Coimisiún Pleanála Ref. No.	ABP-320208-24	Address	Lands at St. Michael's Hospital Car Park, Crofton Road, Dún Laoghaire, Co. Dublin
Description of project	SHD comprising 102 BTR apartments in two buildings up to thirteen and nine storeys respectively, a café, and ancillary works		
Brief site description relevant to WFD screening	The site is a former surface level car park which is now a construction site. Vehicular access through the site is maintained to St. Michael's Hospital car park to the south. The site is within the built-up area of Dun Laoghaire. Dun Laoghaire Harbour is on the opposite side of Crofton Road and the Dart line to the north with a distance of approximately 110 metres between the site and the water. There are no other watercourses on or adjacent to the site. The Corine land-cover is 'artificial surface'		
Proposed surface water details	Surface water is to a public surface water system, after on-site SuDS. The surface water sewer discharges to the Irish Sea at the West Pier.		
Proposed water supply source and available capacity	Water supply is from the public main. A Confirmation of Feasibility has been received from Uisce Éireann.		
Proposed wastewater treatment system and available capacity	Foul water is to a public combined system and eventually to Ringsend WWTP. A Confirmation of Feasibility has been received from Uisce Éireann. This is now more than five years out of date. I checked the publicly available Uisce Éireann website on 8 th June 2026. The Wastewater Treatment Capacity Register stated that spare capacity was available in Ringsend WWTP, indicating that capacity remains available for the proposed development.		
Other issues	None.		

Step 2: Identification of relevant water bodies and Step 3: S-P-R connection								
Identified water body		Distance	Water body name (code)		WFD status (2019-2024)	Risk of not achieving WFD status	Identified pressures on that water body	Pathway linkage to water feature
Coastal waterbody (Dublin Bay)		Approximately 110 metres to the north	Dublin Bay (IE_EA_090_0000)		Good	Not at risk	None identified	Surface water from site discharges after SuDS to the public system which outfalls to Dublin Bay at the West Pier
Groundwater waterbody		Underlying site	Kilcullen (IE_EA_G_003)		Good	At risk	Agriculture, anthropogenic, and forestry	Drainage to groundwater
Step 4: Detailed description of any component of the development or activity that may cause a risk of not achieving the WFD Objectives having regard to the S-P-R linkage.								
Construction Phase								
No.	Component	Waterbody receptor (EPA code)	Pathway	Potential for impact / what is the possible impact	Screening stage mitigation measures	Residual risk? Y/N	Determination to proceed to Stage 2	

1.	Coastal	Dublin Bay (IE_EA_090_0000)	Surface water discharge	Deterioration of surface water quality	Documentation submitted with the application e.g. CMP and CEMP, contains mitigation measures	No. Appropriate mitigation is proposed. The site is approx. 110 metres from the Bay and effects on this are not likely.	Screened out
2.	Ground	Kilcullen (IE_EA_G_003)	Discharge to ground	Deterioration in groundwater quality	As above	No	Screened out
Operational Phase							
3.	Coastal	Dublin Bay (IE_EA_090_0000)	Surface water	Deterioration of surface water quality	Primarily SuDS. Should permission be granted it is recommended that the grant reflects the specific technical conditions of the DLRCC Drainage Planning Section.	No. This is a standard residential development.	Screened out
4.	Ground	Kilcullen (IE_EA_G_003)	Discharge to ground	Deterioration in groundwater quality	As above	As above	Screened out
Decommissioning							
Decommissioning is not anticipated as this is a permanent residential development.							