



An  
Coimisiún  
Pleanála

## Inspector's Report ABP-321075-24

|                                     |  |
|-------------------------------------|--|
| <b>Development</b>                  | Demolition of building and tennis court, construction of 25 apartments in a 4/5 storey building                    |
| <b>Location</b>                     | The Pavilion, 204-205 Merrion Road, Dublin 4, D04 EC86   |
| <b>Planning Authority</b>           | Dublin City Council South  |
| <b>Planning Authority Reg. Ref.</b> | 2435/21  |
| <b>Applicant(s)</b>                 | Brian Kennedy  |
| <b>Type of Application</b>          | Permission   |
| <b>Planning Authority Decision</b>  | Granted Permission   |
| <b>Type of Appeal</b>               | Third Party  |
| <b>Appellant(s)</b>                 | John & Mary Glynn<br>Breeda Jones<br>Residents of Block 3 Merrion Village<br>Merrion Village Residents Association |
| <b>Observer(s)</b>                  | Merrion Village Management (Phase 5) CLG   |

**Observers to Addendum**

Breeda Jones  
Residents of Block 3 Merrion Village  
Merrion Residents Association  
Brian Kennedy

**Date of Site Inspection**

10<sup>th</sup> December 2025 & 5<sup>th</sup> May 2026

**Inspector**

Catherine Dillon

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## **1.0 Introduction**

- 1.1. This report follows from a previous ABP case Ref: 310450-21 (dated 12<sup>th</sup> October 2021) and should be read in conjunction with same. Although this report and associated submissions refer to actions/correspondence of the Commission at a time when it was formerly known as ‘the Board’, I will refer in all cases to ‘the Commission’ in the interests of clarity.
- 1.2. On the 23<sup>rd</sup> February 2022, the Commission issued a refusal in the case of 310450-21 for the demolition of a pavilion (gym) building and tennis court, construction of 25 apartments in a 4/5 storey building at The Pavillion, 204-205 Merrion Road, Dublin 4.
- 1.3. The refusal by the Commission was subject to a Judicial Review. By order of the High Court (perfected on 27<sup>th</sup> Sept 2024), the refusal was quashed and remitted back to the Commission for reconsideration in accordance with law. The new number assigned to the case is ABP 321075-24.
- 1.4. Following the High Court Order, the Commission invited participants to the appeal to make further submissions they may have on the remitted case and on the updated Dublin City Development Plan 2022-2028, under Section 131 of the Planning and Development Act as amended. A copy of the High Court Order was enclosed with the letters.
- 1.5. This report considers the submissions made on foot of the Section 131 notice and also considers the updated legislative and policy context, in particular the adopted Dublin City Development Plan 2022-2028 and any other changes relevant to the context of this appeal case. This appeal case shall be considered de novo.

## **2.0 Site Location and Description**

- 2.1. The subject site is located on the north eastern side of Merrion Road (R118) and includes an existing vehicular access off Merrion Road which abuts a mews development (1-3 Lennon’s Cottages) on its western side.
- 2.2. The site is relatively flat from the entrance off Merrion Road rising abruptly beyond a retaining wall to the rear (northern boundary) and a steep embankment up to Block 3 Merrion Village and to the eastern boundary. There is a disused sunken tennis court on the north western end of the site and a pavilion building in use as a gym in the

south eastern side of the site. There are two trees on the site to the north of the pavilion.

- 2.3. Immediately to the east of the vehicular access off Merrion Road is a two storey/single storey building known as The Merrion Inn in use as a pub/ restaurant which bounds part of the southern boundary of the subject site. Further to the east of the Merrion Inn is a Circle K petrol filling station which fronts Merrion Road and also bounds the southern part of the subject site.
- 2.4. Merrion village is a gated development which comprises three/four /five/six storey blocks of apartments and two storey dwellings, all served by a private vehicular access off Merrion Road.
- 2.5. Block 3 (Nos.49-68) Merrion Village is a four storey block of apartments which overlooks the subject site and abuts its northern boundary. No.69 Merrion village is a detached two storey dwelling which also bounds the western boundary of the site to the west of Block 3.
- 2.6. St.John's House immediately to the east of the subject site, is in use as a large nursing/retirement home which has been extended to the side and rear and comprises a three storey rear extension block with bedroom windows overlooking the subject site. The rear elevation to this extension faces onto Nos. 15-48 Merrion Village (Block 2).
- 2.7. The western boundary of the site extends along the rear garden of No.186 Merrion Road, a three storey end of terrace property.
- 2.8. There are 2 combined sewers 1350mm and 900 mms in diameter that traverse the western end of the subject site under the control of Uisce Eireann, extending from Merrion Road onto the Merrion Village development.
- 2.9. The site is adjacent to Merrion Road Quality Bus Corridor (QBC), the Blackrock to Merrion Bus Corridor and the Sydney Parade Dart Station lies approximately 130m to the north of the site, and runs parallel with Merrion Village to the north. There is pay and display on street parallel parking along Merrion Road. Nutley Lane junction and The Merrion Shopping Centre are to the south west of the site. St. Vincent's Hospital is opposite the site to the south.
- 2.10. The site has a stated area of 0.25 hectares.

### 3.0 Proposed Development

- 3.1. The development would comprise the following:
  - (i) Demolition of the existing single/two storey pavilion building (330m<sup>2</sup> as stated) in use as a gym and the removal of the tennis courts.
  - (ii) The construction of 25 apartments and a gym (159m<sup>2</sup>) to the south eastern end of the site, and to the rear of the Merrion Inn, the petrol station and St. John's Home and to the south of the Merrion Village development.
- 3.2. The apartment block would be four/five storeys in height with a basement containing 25 car parking spaces, bicycle parking, bin storage, individual apartment storage and lift lobby. Access into the basement would be via the existing vehicular access along Lennon's Cottages. Two additional accessible spaces are indicated to the rear of Lennon's Cottages, close to the entrance into the basement.
- 3.3. The apartment building would be arranged around a central courtyard area in a saw tooth staggered layout on its northern elevation and three individual blocks on its southern elevation. The apartment building would be set in a minimum distance of 10.2m from the western elevation with St. John's House, 17.6m from the western boundary and 18.2m from Block 3 Merrion Village to the north at its closest point. The south western end of the apartment building would be located on the boundary with The Merrion Inn, and between 1.7m and 4m from the south and south eastern boundary respectively.
- 3.4. The existing surface water network would be removed as part of the proposed works and surface water run off from the scheme would be collected in a new drainage network located in the basement of the proposed development, which would connect to a new external surface water network within the site and fall by gravity to a 45m<sup>3</sup> attenuation tank located under the proposed open space area. This would connect to an existing 150mm diameter surface water drainage pipe currently serving Lennon's Cottages and the rate would be limited to 2l/s by a hydrobrake system.
- 3.5. It is proposed to construct a new foul drainage network to drain through an oil/petrol interceptor before being pumped to ground level and discharging into a manhole before connecting into the foul drainage network at Lennon's Cottages.
- 3.6. The development would connect to the existing public water main on Merrion Road.

- 3.7. It is stated the development has been designed to avoid impacting on the combined sewers and in accordance with Uisce Eireann's requirements by providing a 4m wayleave separation distance from the combined sewers.
- 3.8. The existing ESB substation at Lennon's Cottages is proposed to be relocated as part of the development.
- 3.9. The applicant has stated they are committed to making a financial contribution in respect of open space.

Table 1 below provides a summary of the key aspects of the proposed development

| <b>Table1.0 Summary of proposed development</b> |  |
|---|--|
| <b>Site Area</b>                                | 2522m <sup>2</sup>   |
| <b>Gross floor area (GFA)</b>                   | 1935m <sup>2</sup>   |
| <b>Net Floor area (NFA)</b>                     | 1810m <sup>2</sup>   |
| <b>No. of apartments</b>                        | 25   |
| <b>Apartment sizes</b>                          | 1 x 1bed @ 47m <sup>2</sup><br>2 x 1 bed @ 51m <sup>2</sup><br>9 x 1 bed @ 52m <sup>2</sup><br>2 x 2 bed @ 66m <sup>2</sup> (3 persons)<br>3 x 2 bed @ 73m <sup>2</sup> (4 persons)<br>1 x 2 bed @ 76m <sup>2</sup> (4 persons)<br>4 x 2 bed @ 85m <sup>2</sup> (4 persons)<br>1 x 2 bed @ 89m <sup>2</sup> (4 persons)<br>2 x 2 bed duplex @ 89m <sup>2</sup> (4 persons) |
| <b>Apartment mix</b>                            | 1 bed – 48%<br>2 bed – 52%   |
| <b>Part V</b>                                   | Apt 3 (1 bed) & Apt 4 (2 bed) both at ground floor level (8%)  |
| <b>Density</b>                                  | 99.1 units per hectare   |
| <b>Plot ratio</b>                               | 0.78   |

|                       |   |
|-----------------------|---|
| <b>Site coverage</b>  | 28%   |
| <b>Open Space</b>     | Communal open space area 1258m <sup>2</sup> (50% of site area), in the form of shared courtyard area & redesigned amenity garden to the north west of the site. |
| <b>Height</b>         | 4 storeys (16.32m to parapet) and 5 storeys (19.025m to parapet)  |
| <b>Dual Aspect</b>    | 100%  |
| <b>Triple Aspect</b>  | 52% (13 units)  |
| <b>Access</b>         | Vehicular access off Merrion Road (shard surface)<br><br>Second pedestrian access from north east corner of site via Merrion Village development.               |
| <b>Car parking</b>    | 27 no. basement car parking spaces including no.2 accessible parking space  |
| <b>Cycle parking</b>  | 44 no. bicycle spaces at basement level & 12 at surface level.  |
| <b>Water Services</b> | Connecting to public water and foul.  |

3.10. The application was accompanied by the following:

- Planning Report
- Design Statement including a landscape plan
- Screening for Appropriate Assessment
- Traffic & Transport Assessment Report
- Flood Risk Assessment
- Engineering Planning Report which included a Water Confirmation of Feasibility Letter from Uisce Eireann.
- Construction Management Plan
- Life Cycle Report

- Daylight & Sunlight Assessment report (dated 22/6/2021).

## **4.0 Planning Authority Decision**

### **4.1. Decision**

4.1.1. Permission was granted by Dublin City Council on 14<sup>th</sup> May 2021, subject to 21 conditions.

4.1.2. The following conditions are of note:

Condition 2- Development Contributions to the sum of €148,188.90 towards public infrastructure and services..

Condition 3- Development contribution to the sum of €100,000 in lieu of public open space.

Condition 4- Developer to engage with Uisce Eireann (formerly IW) regarding inter alia CCTV survey of sewers, foundations to be at least 3m below sewer invert, and all works to be in compliance with Uisce Eireann's standards, codes and practices.

Condition 9 - Landscape scheme to be agreed prior to commencement with P.A.

Condition 13 Project Construction & Demolition Waste Management Plan to be agreed with P.A. prior to commencement.

Condition 14- Drainage works to be in compliance with GDR Code of Practice for Drainage Works, and (v) flood mitigation measures to be implemented in accordance with the SSFRA.

Condition 16 - Construction & Waste Management Plan to be submitted and approved by Dublin City Council.

### **4.2. Planning Authority Reports**

4.2.1. The Planning Officer's Report dated 11/5/21 makes reference to the previous refusal of planning permission for 28 units on the site by the Commission (ABP Ref: 307122-20) which related to the separation distance of the development from the two trunk sewers transversing the site and the unit mix and that these issues had been

addressed in the new application. The application was considered under the Dublin City Development Plan 2016-2022.

Zoning:

- Site was considered in line with zoning objective Z1 subject to compliance with policies and objectives of the City Development Plan (DP) 2016-2022.

Density & Plot ratio:

- Notes no upper unit density limit on Z1 zoned lands, and the proposed density being 99 uph was less than the previous scheme (111uph).
- Plot ratio at 0.78 was in line with Z1 zoning objective, and although the site coverage was 28% and fell below the recommended 45-60% for the zoning, it was considered acceptable in this instance, given the site's context.

Scale & Design:

- Considered height of development matched the height of the adjoining St.John's nursing home and related to the scale of Merrion Village.
- Site is within 500m of a Dart station and as such complied with Section 16.7.2 of the DP which sets a maximum height of 24m for rail hub locations.
- A large proportion of the site (50%) would provide for communal space.
- Refers to the Design Statement submitted and that all apartments would be dual or triple aspect.
- All apartments would have access to a terrace or balcony in compliance with the guidelines.
- Apartment sizes in compliance with Apartment Guidelines (2018).
- Apartments within development compliant with Average Daylight Factor (ADF).

Existing residential amenity:

- Reference is made to previous Commission decision in this regard.

- Notes that the submitted Daylight and Sunlight Assessment concludes that there would be a moderate impact on the Vertical Sky Component (VSC) on window Gc and 1c and slight impact on Gb and 1b in 49-68 Merrion Village, imperceptible impact on Lennon's Cottages and no impact on St.John's Nursing Home.
- Notes Annual Probable Sunlight Hours (APSH) test identified a moderate impact on apartment for Gc and slight impact for apartment 1c at Nos.46-48 Merrion Village with no impact during the winter. Imperceptible impact on Lennon Cottages on APSH. No impact in winter time.
- Satisfied with shadow analysis as submitted.

#### Water Services:

- Notes internal and external responses from the Drainage Division & Uisce Eireann.

#### Transportation:

- Notes the internal report from the Transportation Section.

#### Appropriate Assessment & EIAR

- No Appropriate Assessment or Environmental Impact Assessment issues arose.

#### Conclusion

- Concludes that the applicant has dealt with the previous concerns raised by the Commission and that the development complies with Z1 zoning objective of the site and the proper planning and sustainable development of the area.

#### 4.2.2. Other Technical Reports

Engineering Dept, Drainage Division memo dated 9/4/2021: No objection subject to conditions.

Transportation Division memo dated 4/5/2021: No objection subject to conditions.

### 4.3. Prescribed Bodies

Uisce Eireann (UE) report dated 14/4/2021: No objection subject to standard UE conditions.

### 4.4. Third party Observations

4.4.1. The planning authority received a number of third party submissions. The main concerns are summarised as follows:

- Loss of communal open space and loss of pavilion contrary to previous permissions for Merrion village.
- Residential amenity for existing and future occupiers and impact on character of the area by reason of excessive density, overdevelopment, overbearance, overlooking, over shadowing, insufficient separation distances, green space and general amenity, and noise and disturbance during construction.
- Impact on infrastructure including existing drainage system and ESB structure.
- Traffic impacts on Merrion Road and insufficient car parking.
- Reference to previous refusal of permission on the site and Inspector's recommendation for refusal.

## 5.0 Planning History

### 5.1. Relevant to appeal site

5.1.1. **ABP 307122-20 & P.A Ref: 4461/19:** Planning permission was refused by the Commission on 28/1/2021 for the demolition of an existing underutilised 2 no. storey building (390m<sup>2</sup>) and tennis court and the construction of 28 apartments with an overall height of four/five storeys over basement and vehicular access onto Merrion Road. The development was refused on the following grounds:

'Having regard to the presence of two trunk sewers running through the site, and to the proposed solutions submitted to the Board on the 22nd day of October, 2020 to address Irish Water's concerns in relation to the future maintenance of these critical infrastructure assets, the Board is not satisfied that the amended scheme, which

proposes between 17 (60.7 per cent) and 19 (70.4 per cent) studio or one bed units within the scheme of 28 or 27 units, depending on a four metres or six metres separation distance from the Irish Water Asset, adequately complies with the “Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities”, issued by the Department of Housing, Planning and Local Government in March 2018, in terms of unit mix within the scheme. The development would be contrary to the Guidelines and would, therefore, be contrary to the proper planning and sustainable development of the area.’

Notwithstanding the above reason for refusal the Board added the additional note to the decision:

‘In deciding not to accept the Inspector’s recommended first and second reasons for refusal, the Board was satisfied that the proposed development would not lead to an unacceptable impact on the recreational amenities of the residents of Merrion Village or of Lennon’s Cottages nor set an undesirable precedent for similar type developments and that each case shall be decided on its own merits. Furthermore, the Board concurred with the planning authority and considered that the proposed development would not result in a significant impact on the existing residential amenities of adjacent residents in terms of overshadowing and overbearing of properties within Merrion Village and the Board was satisfied that the proposed vehicular access to the basement car park (which runs immediately adjacent to the front doors of residences across an existing shared surface), would not have an unacceptable impact on the existing residential amenities of the residents of Lennon’s Cottages and would be acceptable in terms of pedestrian and traffic safety.

Furthermore, the Board concurred with the planning authority and considered that the proposed development would not result in a significant impact on the existing residential amenities of adjacent residents in terms of overshadowing and overbearing of properties within Merrion Village and the Board was satisfied that the proposed vehicular access to the basement car park (which runs immediately adjacent to the front doors of residences across an existing shared surface), would not have an unacceptable impact on the existing residential amenities of the residents of Lennon’s Cottages and would be acceptable in terms of pedestrian and traffic safety.’

5.2. Also of relevance:

Merrion Village Development Planning History

- 5.2.1. **P.A. Ref: 4020/78:** Permission was granted for a development of 9 two storey houses and 87 apartments in 5 blocks. Details of this development are not available.
- 5.2.2. **P.A. Ref:1471/81:** Permission was granted for alterations to Blocks E and F and the indoor recreation centre in the permitted development. The P.A made a split decision on this permission which excluded the amendments to the apartment blocks. Condition 4 of this permission stated, 'The proposed recreational amenity block to be used only for recreational purposes as indicated in the lodged plans, and to be used only for the purposes for the residents of the overall residential development (known as the Merrion Village) of which it forms a part and not for general commercial public use'. The reason for this condition was to safeguard residential amenity.
- 5.2.3. **P. A. Ref: 660/82:** Permission was granted for recreation and amenity building (alterations to approved plans). Condition 4 of this permission provided that the block shall only be used for recreational purposes and that the 'pool hall' shall be used to accommodate a swimming pool and shall not be used for the playing of snooker, billiards, pool or other similar table top games. Condition 5 amended the previous condition 4 of P.A Ref: 1471/81 providing that the recreational amenity block shall be used primarily to serve residents of the overall Merrion Village residential development of which it forms a part. This decision further states that the building shall not be open to the general public on a casual 'pay as you use;' basis but facilitated limited membership to persons not resident in Merrion Village.
- 5.2.4. **P.A. Ref:1844/83:** Permission was granted for alterations to approved plans for erection of nine two storey houses. A plan submitted by third parties indicates the red line area included the subject site.

1-5 Lennons Cottage, Merrion Road

- 5.2.5. **ABP Ref: 211866 & P.A Ref: 1302/05:** On 15/9/2005: ABP granted planning permission for the erection of a new terrace of 3 no. town houses with existing vehicular access from Merrion Road retained and 5 car parking spaces, subject to 5 conditions. The Commission attached a condition requiring the car parking spaces to

be amended, with 2 along the frontage of the site and with a replacement space (total 3 no.) located to the north east end of the site.

- 5.2.6. The approved plans that accompanied this application indicate a private open space area 31m<sup>2</sup>, shared surface and green space area (62m<sup>2</sup>) and 2 car parking spaces to the rear.

## **6.0 Policy Context**

### **6.1. Dublin City County Development Plan 2022-2028**

- 6.1.1. The current Plan for the area is the Dublin City Development Plan (DCDP) 2022-2028 which came into effect on 14<sup>th</sup> December 2022. ABP Ref: 307122-20 was considered under the previous City Development Plan 2016-2021.
- 6.1.2. The appeal site is on lands zoned Z1 'Sustainable Residential Neighbourhoods', the objective of which is '*To protect, provide and improve residential amenities*'. Residential use is permissible within this zoning. The vision for residential development in the city within this zoning is one where a wide range of high quality accommodation is available within sustainable communities, where residents are within easy reach of open space and amenities as well as facilities and public transport.
- 6.1.3. Immediately to the west of the site is zoned Z2 'Residential Neighbourhoods (Conservation Areas)' with a land use zoning objective '*To protect and /or improve the amenities of residential conservation area*'. Residential use is permissible on this zoning.
- 6.1.4. The main policies and objectives relative to this development are set out in Volume 1 chapters 2 (Core Strategy), 5 (Quality Housing & Sustainable Neighbourhoods), 8 (Sustainable Movement & Transport), 9 (Sustainable Environmental Infrastructure & Flood Risk), 10 (Green Infrastructure & Recreation), and 15 (Development Standards).
- 6.1.5. Volume 2 which contains the Appendices to the Plan and of relevance to this development include Appendices 3 (Achieving Sustainable Compact Growth), 5 (Transport & Mobility), 7 (Guidelines for Waste Storage), 9 (Basement Development

Guidance), 11 ( Green & Blue Roof Guide), 12 ( Sustainable Drainage Design), 13 (Surface Water Management Guidance), and 16 (Sunlight & Daylight).

6.1.6. The following sections are relevant to the proposed development:

2.2.2: Core Strategy Table 2-7 indicates the projected housing demand for the years 2022 to 2028 is approximately 40,000 residential units.

2.3 Settlement Strategy & Table 2-8 Core Strategy & Settlement Hierarchy

4.5.3 Urban Density

4.5.4: Increased Height as Part of the Urban Form and Spatial Structure of Dublin

4.5.5: Urban Design & Architecture

5.5 Policies & Objectives Quality Housing & Sustainable Neighbourhoods

In Figure 5-1 of the Plan, Merrion is identified as a key neighbourhood.

5.5.2 Regeneration, Compact Growth and Densification

5.5.3 Healthy Placemaking and the 15-Minute City

5.5.4 Social Inclusion

5.5.7 Specific Housing Typologies

7.5.3 Key Urban Villages, Urban Villages and Neighbourhood Centres

Merrion Shopping centre is an Urban Village next to a High Quality Public Transport Route (Figure 7-1).

8.5 Policies & Objectives Sustainable Movement & Transport

8.5.2 Effective Integration of Land use and Transportation

8.5.6 Sustainable Modes

8.5.7 Car Parking

9.5 Policies & Objectives Sustainable Environmental Infrastructure & Flood Risk

9.5.1 Water Supply and Wastewater

9.5.2 Urban Watercourses and Water Quality

9.5.3 Flood Management

9.5.4 Surface Water Management and Sustainable Drainage Systems (SuDS).

## Chapter 15 Development Standards

### 15.2.3 Planning Application Documentation -Table 15-1 Thresholds for Planning Applications

- Housing Quality Assessment for all residential developments.
- Daylight & Sunlight Assessment for all apartment developments.
- Lifecycle report for all apartments developments.
- Mobility Management Plan /Travel Plan for 20 or more residential units.
- Surface Water Management Plan for 2 or more residential units
- A site specific Flood Risk Assessment is required for any developments within a Flood Risk Zones A and B
- An AA screening is required for all developments.

### 15.4 Key Design Principles

#### 15.4.2 Architectural Design Quality

#### 15.5.4 Height, 15.5.5 Density, 15.5.6. Plot ratio & Site coverage

#### 15.5.7 Materials & Finishes

#### 15.6.2 Surface Water Management and SuDs

#### 15.6.3 Green / Blue Roofs

#### 15.6.7 Landscape Design Rationale, 15.6.8 Landscape Plans and Design Reports for developments >30 + units

#### 15.6.12 Public Open Space and Recreation

#### 15.8.7 Financial Contributions in Lieu of Open Space

#### 15.8.8 Play Infrastructure in schemes of 25 or more units

#### 15.9 Apartment Standards in accordance with The Sustainable Urban Housing: Design Standards for New Apartments (December 2020) or any other future amendment thereof and associated SPPRs.

#### 6.1.7. Summary of policies & objectives relevant to the appeal

Objective CS07: -To promote the delivery of residential development and compact growth through active land management measures and a co-ordinated approach to developing appropriately zoned lands aligned with key public transport infrastructure, including the SDRAs, vacant sites and underutilised areas.

Policy SC8: Development of the Inner Suburbs and outer city and maximise opportunities for intensification of infill, brownfield and underutilised sites where it aligns with existing and pipeline public transport services.

Policies SC10-12- Promote appropriate densities in accordance with Residential Development in Urban Areas and any amendment thereof, compact growth and housing mix.

Policy SC14: Building Height Strategy- To ensure a strategic approach to building height in the city that accords with The Urban Development and Building Height Guidelines for Planning Authorities (2018) and in particular, SPPR 1 to 4.

Policy SC16: Building Height locations in accordance with Appendix 3.

Policy QHSN1: Development to accord with national and regional policy, associated Section 28 guidelines and housing demand.

Policy QHSN2: Regard to DEHLG guidelines, including Design Standards for New Apartments (2020), Sustainable Residential Development in Urban Areas (2009), DMURS & Building Height Guidelines (2018).

Policy QHSN3: Encourage establishment of sustainable residential communities by ensuring a variety of housing typologies.

Policy QHSN6: Urban Consolidation - To promote and support residential consolidation and sustainable intensification through the consideration of applications for infill development, backland development, subject to the provision of good quality accommodation.

Policy QHSN10: Urban Density - To promote residential development at sustainable densities throughout the city in accordance with the Core Strategy, particularly on vacant and/or underutilised sites, having regard to the need for high standards of urban design and architecture and to successfully integrate with the character of the surrounding area.

Policy QHSN11: Promote 15 minute city

Policy QHSN12: Neighbourhood Development-To encourage neighbourhood development which protects and enhances the quality of our built environment and supports public health and community wellbeing.

Policy QHSN16: Accessible Built Environment

Policy QSHN21: Avoid Gated Residential Developments

Policies QHSN22, 23, 25: Adaptable & Flexible Housing, Independent Living & housing for people with Disabilities

Policy QHSN34 & 35: Social , Affordable, Cost Rental and Diversity of Housing Typology & Tenure

Policies QHSN36-38- relates to quality apartment development & Housing & Apartment Mix

Objective QHSN04: Densification of Suburbs

Objective QHSN011: 50% of apartments in any development are required to be in excess of minimum sizes.

Policies QHSN36-38 :Relates to high quality apartment and residential development and unit mix.

Policy SMT1: Promote modal shift and compact growth.

Policy SMT27: Car Parking in Residential and Mixed Use Developments (Appendix 5)

Policy SMT33: Design Manual for Urban Roads and Streets

Policies SI2-SI15 : Integrating Water Services, separation of foul & surface water, safeguarding public water services infrastructure with development

Policies SI7-9 Protecting water quality status and preventing pollution of groundwater.

Policies SI14-SI16 relating to site specific flood risk assessment & justification test on lands subject to flooding

Policy SI22: Sustainable Drainage Systems in all new developments.

Policy SI23: Green Blue Roofs in all new developments over 100m<sup>2</sup>.

Policy SI25: Surface Water management in all new developments.

Policy SI30: Waste management in Apartment Schemes

Policy GI28: Public space in new developments

Policy GI31: Protect and Improve Ecological Status of Rivers under the EU Water Framework Directive.

Policy GI40: Seek to provide additional tree planting in new development.

Policy GI52: Children's Playing facilities in New Residential and Mixed Developments

Objective GI01: Green Roof Guidance Document (2021) The use of green / blue roofs in developments will be in accordance with the requirements of the Dublin City Council Green and Blue Roof Guide Document (2021), see Appendix 11.

Policies GI9-10 Protection of Natura 2000 sites and flora & fauna under EU habitats and Birds Directives.

Policy GI16: Habitat Creation and New Development

## **6.2. Regional Spatial & Economic Strategy 2019-2031 RSES (Eastern & Midlands Region)**

- 6.2.1. The RSES endorses the NPF's principles of consolidation, brownfield development, densification and compact growth. The RSES sets out a new regional plan providing a long term spatial planning direction for the region in which Dublin is categorised as a global city in recognition of the international role it plays for the country. Included in the RSES is the 12-20 year Metropolitan Area Strategic Plan (MASP) for Dublin. The MASP identifies a regional framework which aligns population and employment growth with associated transport and infrastructure investment priorities.
- 6.2.2. Section 3.2 of the RSES seeks to promote compact growth to realise targets of at least 50% of all new homes to be built, within or contiguous to the existing built up area of Dublin city and suburbs and a target of at least 30% for other urban areas.
- 6.2.3. The RSES population projections for the Dublin City Council Area for 2031 are 638,500 (low) and 655,000 (high) persons. The RSES Settlement Hierarchy identifies the whole of Dublin City and suburbs as falling within Tier 1. The subject site lies within the Metropolitan Area Strategic Plan (MASP) area for Dublin.

- 6.2.4. RPO 4.3: Supports the consolidation and re-intensification of infill/brownfield sites to provide high density and people intensive uses within the existing built up area of Dublin City and suburbs and ensure that the development of future development areas is co-ordinated with the delivery of key water infrastructure and public transport projects

### **6.3. National Context**

### **6.4. National Planning Framework (NPF) First Revision, April 2025**

- 6.4.1. This Plan is the Government's high-level strategic plan for shaping the future growth and development of the country to the year 2040. Key elements of the NPF include commitments towards 'compact growth', 'sustainable mobility', 'sustainable management of environmental resources', 'transition to a carbon neutral and climate resilient society', and 'enhanced amenity and heritage'. It contains several relevant policy objectives that articulate the delivery of key elements, including:

NPO 7: Deliver at least 40% of all new homes nationally, within the built-up footprint of existing settlements and ensure compact and sequential patterns of growth.

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 10: Deliver Transport Orientated Development (TOD) at a scale at suitable locations, served by high-capacity public transport and located within or adjacent to the built-up footprint of the five cities or a metropolitan town and ensure compact and sequential patterns of growth.

NPO 11: That planned growth at a settlement level shall be determined at development plan-making stage and addressed within the objectives of the plan. The consideration of individual development proposals on zoned and serviced development land subject of consenting processes under the Act shall have regard to a broader set of considerations beyond the targets including, in particular, the receiving capacity of the environment.

NPO 12: Ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being.

NPO 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 37: Ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments and integrating physical activity facilities for all ages.

NPO 43: To prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale.

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 77: Enhance water quality and resource management by fully considering River Basin Management Plan objectives and integrating sustainable water management solutions.

NPO 79: Support the management of stormwater, rainwater and surface water flood and pollution risk through the use of nature-based solutions and sustainable drainage systems, including the retrofitting of existing environments to support nature-based solutions.

NPO 92: Ensure the alignment of planned growth with the efficient and sustainable use and development of water resources and water services infrastructure, in order to manage and conserve water resources in a manner that supports a healthy society, economic development requirements and a cleaner environment.

## **6.5. National Climate Action Plan (NCAP) 2025**

- 6.5.1. This Plan builds upon and should be read in conjunction with the Climate Action Plan 2024. It outlines the measures and actions required to deliver carbon budgets and

sectoral emissions ceilings and provides a roadmap for taking decisive action to halve Ireland's emissions by 2030 and achieve climate neutrality by no later than 2050. All new dwellings will be designed and constructed to Nearly Zero Energy Building (NZEB) standard by 2025, and Zero Emission Building standard by 2030. In relation to transport, key targets include a 20% reduction in total vehicle kilometres travelled, a 50% reduction in fossil fuel usage, and significant increases to sustainable transport trips and modal share. The Commission is required to perform its functions in a manner consistent with the Climate & Low Carbon Development Act.

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

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

## **6.7. Ministerial Guidelines**

- 6.7.1. Having regard to the nature of the proposed development and to the location of the appeal site, I consider the following Section 28 Guidelines to be pertinent to the assessment of the proposal.

### **Sustainable Residential Development and Compact Settlements, Guidelines for Planning Authorities (2024).**

- 6.7.2. These 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. Where there are differences between these Guidelines and other previously issued Section 28 guidelines, it is

intended that the policies and objectives and specific planning policy requirements (SPPR's) of the Compact Settlements Guidelines will take precedence.

- 6.7.3. To achieve compact growth, the guidelines state it will be necessary to increase the scale of new buildings in all parts of our cities and towns, with the highest densities at the most central and accessible urban locations, particularly in city centres and close to public transport nodes and interchanges.
- 6.7.4. In this regard, section 3.0 of the Guidelines deals with settlement, place and density. Section 3.3.1 relates specifically to the five cities and MASP areas. Amongst the key priorities is to deliver brownfield and infill development at suitable locations within the existing built-up footprint and in a sequential manner closest to the urban core.
- 6.7.5. Table 3.1 of the Guidelines set out the area and density ranges for Dublin city and suburbs. Within Dublin city and the canal loop residential densities in the range of 100dph to 300 dph (net) shall generally be applied. Within the city neighbourhoods and highly accessible locations residential densities in the range of 50 dph to 250 dph shall be applied, and between 40-80 dph in suburban/urban locations. Table 3.1 also notes that net densities of up to 150dph shall be open for consideration at 'accessible' suburban/urban extension locations. Table 3.8 of the Guidelines defines an 'accessible location' as lands within 500m (i.e., up to 5-6 minute walk) of existing or planned high frequency (i.e. 10 minute peak hour frequency) urban bus services.
- 6.7.6. Specific Planning policy requirements within these guidelines include the following:
- SPPR 1-Separation Distances- a separation distance of at least 16m between opposing windows serving habitable rooms.
  - SPPR 2-Minimum Private Open Space Standards for Houses. Apartments and duplex units shall be required to meet the private & semi-private open space requirements set out in the Sustainable Urban Housing Standards for New Apartments 2023
  - SPPR 3- Car Parking- should be minimised in city centres and urban neighbourhoods-1 space per dwelling and include visitor parking provision.
  - SPPR 4 - Cycle Parking and Storage- minimum of 1 space per bedroom & include visitor parking.
  - Policy and Objective 3.1 - Recommended residential density ranges.

- Policy and Objective 4.1 – Implementation of DMURS.
- Policy and Objective 4.2 - Key indicators of quality urban design and placemaking.
- Policy and Objective 5.1 - Public Open Space.10-15% of net site area

**The Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2022, updated July 2023).**

- 6.7.7. The Sustainable Urban Housing Design Standards for New Apartments Guidelines for Planning Authorities 2023 set out national policy and standards for apartment development, in order to ensure greater consistency of national policy across local authority areas. This includes recommended standards in relation to housing mix and minimum floor areas and location.
- 6.7.8. The guidelines support the use of infill sites in urban locations to provide higher density apartment developments. In terms of these guidelines the subject site lies within a central and /or accessible urban location generally suitable for small to large scale and higher density development comprising wholly of apartments being within 10 mins (or 800-1,000m) to/from a high capacity urban public transport stop such as the DART; and within 5 minute walking distance (400-500m) to/from high frequency urban bus services. The subject site lies within 130m of the Sydney Parade Dart Station, and is adjacent to the Merrion Road Quality Bus Corridor (QBC), and the Blackrock to Merrion Bus Corridor.
- 6.7.9. Specific Planning policy requirements within these guidelines include the following:
- SPPR1 - Apartment developments may include up to 50% one-bedroom or studio type units, (with no more than 25% as studios).
  - SPPR2 –On urban infill schemes up to 0.25ha, where up to 9 residential units are proposed, (notwithstanding SPPR1), there shall be no restriction on dwelling mix.
  - SPPR3 – Standards for minimum apartment floor areas- 45m<sup>2</sup> for 2 bed & 73m<sup>2</sup> for 3 bed (3P).
  - SPPR4 –A minimum of 33% dual aspect units are required in more central and accessible locations, a minimum of 50% in a suburban or intermediate location and on urban infill sites of any size or on sites of up to 0.25ha

planning authorities may exercise discretion to allow lower than the 33% minimum.

- SPPR5 – Specifies floor to ceiling heights (2.7m).
- SPPR6 – Specifies maximum of 12 apartments per floor per core.
- Appendix 1 – sets out the minimum requirements for aggregate floor areas, room areas and widths, storage space, private and communal amenity space.
- Car Parking – In areas that are well served by public transport, the default position is for car parking provision to be minimised, substantially reduced or wholly eliminated. This is particularly applicable where a confluence of public transport options is in close proximity.

6.7.10. The guidelines state where SPPRs are stated in the guidelines, they take precedence over any conflicting, policies and objectives of development plans, local area plans and strategic development zone planning schemes. Where such conflicts arise, such plans should be amended by the relevant planning authority to reflect the content of these guidelines and properly inform the public of the relevant SPPR requirements.

6.7.11. Section 6.6 of the Guidelines states that planning authorities should have regard to quantitative performance approaches to daylight provision outlined in guides like *A New European Standard for Daylighting in Buildings* (IS EN 17037:2018), *UK National Annex* (BS EN 17037:2019) and the associated practice guide BRE 209 2022 (3rd ed., June 2022), or any relevant future standards or guidance specific to the Irish context.

6.7.12. 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. 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 30 securing comprehensive urban regeneration and or an effective urban design and streetscape solution.

**Design Standards for Apartments, Guidelines for Planning Authorities (2025) issued on 8/7/2025.**

- 6.7.13. These Guidelines do not apply to the subject appeal. They apply to any application for planning permission and to any subsequent appeal or direct application to the Commission after the issue of the guidelines, i.e from 9/7/2025.

**Urban Development and Building Height Guidelines for Planning Authorities (2018).**

- 6.7.14. These Guidelines reinforce the national policy objectives of the NPF relating to compact growth and set a framework for a performance-based approach to the consideration of building height. The consolidation and densification in city and town centres and within the canal ring in Dublin, the guidelines consider it appropriate to support building heights of 6 storeys at street level as the default objective. SPPR1 supports increased building height and density in locations with good public transport.

- 6.7.15. Securing compact and sustainable urban growth means focusing on reusing previously developed 'brownfield' land, building up infill sites (which may not have been built on before) and either reusing or redeveloping existing sites and buildings, in well serviced urban locations, particularly those served by good public transport and supporting services. Densities of 45 u/per hectare are considered appropriate in central and /or accessible locations.

- 6.7.16. Section 3 of these guidelines sets out development management criteria which includes the applicant demonstrating development meets the criteria in SPPR 3 in relation to scale and the wider objectives of the NPF. 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'.

**The Planning System and Flood Risk Management (including the associated Technical Appendices) (2009) & Circular PL 2/2014 of the Flood Risk Management Guidelines for Planning Authorities.**

- 6.7.17. In Section 4.27 of these guidelines, it states planning authorities should reconsider the zoning objective of the current or previous plan on lands where flood risk is

potentially significant and likely to increase in the future. I note the subject site was zoned Z1 in the former Development Plan.

- 6.7.18. Planning authorities must strike a fair balance between avoiding flood risk and facilitating necessary development, enabling future development to avoid areas of highest risk and ensuring that appropriate measures are taken to reduce flood risk to an acceptable level for those developments that have to take place, for reasons of proper planning and sustainable development, in areas at risk of flooding.
- 6.7.19. Where there are insufficient sites available to locate development outside flood risk areas, it may be necessary, to meet the objectives of proper planning and sustainable development, for development to be sited within flood risk areas. The Justification Test is an examination of such proposals against proper planning and sustainable development criteria and, if these are satisfied, against flood risk criteria to ensure that risks are reduced to an acceptable level and that flood risk is not increased elsewhere.

## **6.8. Other relevant National Policy & Guidance:**

- 6.8.1. Design Manual for Urban Roads and Streets (DMURS) (2019).
- 6.8.2. Nature-Based Solutions to the Management of Rainwater and Surface Water Runoff Urban Areas Water Sensitive Urban Design Best Practice Interim Guidance Document, 2022.

## **6.9. Natural Heritage Designations**

- 6.9.1. The site is not located within a designated site. The closest Natura 2000 sites are the South Dublin Bay SAC (site code 000210), and South Dublin Bay & River Tolka SPA (site code: 004024) both circa 300 metres from the eastern boundary of the subject site at their closest point.

## 7.0 The Appeal

### 7.1. Grounds of Appeal

### 7.2. Third Party

7.2.1. Third party appeals were received from the following parties: Breeda Jones, Merrion Village Residents Association, John and Mary Glynn and Residents of Block 3 Merrion Village on the following summarised grounds.

#### Non-compliance and planning precedent

- Development would materially contravene the parent grant of permission for the Merrion Village development.
- Conditions and plans for P.A. Ref. Ref. 4020/78, 1471/81 and 660/82 and attached to Merrion Village development designate the subject site as amenity and recreational space. (Copy of decisions & conditions enclosed with submission).
- The tennis courts, outdoor area and recreational building are part of the Merrion Village development and residents have legitimate expectation that the amenity space is retained as provided for in the layout for the original development.
- Any development would be in conflict with the plans for the grants of permission under P. A. Reg Ref: 4020/78 and 1844/83.
- Matter was not addressed at application stage in the planning authority report and assessment despite being raised by third parties.
- It is unreasonable and illogical of the planning authority in assessment of the current proposal to have disregarded the Inspector's assessment in the previous decision relating to loss of recreational space.
- Conditions were attached in which use of the recreational amenity block is confined to use by residents of the Merrion Village development primarily with limited membership for non-residents and, (under condition No 3) attached to the original grant of permission under P. A. Reg. Ref. 4020/78.

- An image of a plan with the redline boundary for the grant of permission under P.A. Reg. Ref. 1844/83 is also provided and it is contended that the proposed development comes within this area.
- Reference is made to Altar Developments Ltd v Ventola Ltd. (quoted in, Simons, G “Planning and Development Law” (2007) [2005] I.E.H.C 312) and the argument that planning conditions fell to be interpretation in cases of ambiguity. No ambiguity in this instance.
- The proposed development would set undesirable precedent for development on designated open space under a previous grant of planning permission.
- Two planning appeals are referenced in which it was determined that a reduction in usable open space would materially contravene a condition ( ABP Ref: 246984, & ABP 207047).

#### Loss of open space

- Merrion Village which has 151 dwelling units has insufficient green and exercise space and the facilities at the pavilion and tennis court were integral to the original grant of permission.
- The site area incorporates communal open space which is designated as open space for Block 3 in the original development which cannot be accepted as open space for the proposed development. (An extract of the site layout for P. A. Reg. Ref. 4657/82 and from the current application is provided.)
- At application stage, the impact of the reduction in quantum of open space for Merrion Village was not considered and landscaping details were not requested, the planning officer having considered the proposals submitted inadequate.

#### Residential Amenity

- The proposed development would negatively affect residential amenity by reason of substandard open space, residential amenity, poor elevation treatments and separation distances.
- No analysis of quantum of open space for Merrion Village.

- The site is adjacent to the appellant's property (No 69 Merrion Village) and the proposed development on the constrained backland site would adversely affect its amenities due to overbearing impact.
- The adjoining garden at the appellant's property would be affected by the overbearing scale, overlooking and loss of privacy.
- Effects of noise and disturbance during construction stage are also a consideration.
- Construction management plan should be dealt with prior to determination and not, by condition, post planning.
- The proposed development is an infill that is oppressive and insensitive for the location.
- It is contrary to the residential quality standards in the CDP (section 16.10 and 16.10.2) regarding standards on standards and minimisation of overshadowing and overlooking.
- Balconies on the south elevation of Block 3 (external private amenity space) and south facing windows would lose their sunny aspect and views towards Merrion Road and beyond.
- The proposed block is insufficient in separation distance being 18.2 metres from Block 3 and will be imposing and will overlook and overshadow it. This would be contrary to section 16.10.2 of the CDP in which 22 metres separation distances required for opposite windows between two storey dwellings.
- Use of the open space between Block 3 the application site would impact on privacy and amenity at the ground floor units in Block 3.
- Overbearing and sense of enclosure impact to Block 3 which is 13m in height and four storeys whereas the parapet height of the proposed block is much taller at 19m.
- The blank façade is unattractive and overbearing in sense of enclosure for the open space between the proposed block and Block 3.
- With regard to section 16.10.1 of the CDP (Residential Quality Standards) the development would be in contravention in that the north facing balconies would not have sunny aspects, they face block 3 balconies at 18.2 metres

which fails to minimise overlooking and the proximity results in overshadowing by the mass of the proposed block.

- The height, scale, massing and orientation adversely affects the residential amenity of Block 3 residents to a severe degree amounting to significant negative impact on residential amenities.
- The open space area would be poor for future residents as it would be overshadowed by Block 3 Merrion Village.
- It would adversely affect the setting of the adjacent properties in the 'Z2' zoned lands to the west and a lack of due regard to the characteristics of surrounding development in height, scale and bulk and the stepped down nature of Merrion Village blocks.
- Excessive traffic generation.
- Landscape proposals inadequate
- The proposed development will result in devaluation of properties.

### Density

- The density of development would increase from circa 114 units per hectare if this space is used for development which is in excess of the 50 units recommended in planning guidelines.
- The reasons for refusal of permission for the previous proposal recommended in the Inspector's report (ABP Ref: 307122) are equally applicable to the current proposal notwithstanding national policy for higher density development.
- Increased intensity and density should not be at the expense of residential amenity of surrounding development. Reference is made to sections 16.2.2. (Infill development) 4.5.4.1 (Taller Buildings) and 16.4 (Density Standards) of the 2016 CDP.
- Acknowledge need for higher densities in NPF but refer to CDP regarding infill development should respect the existing character and protect future and existing residents.

### Daylight & Sunlight analysis

- It is clear that there is adverse impact on seven of seventeen windows in diminution of VSC.
- The daylight impact is not addressed in the Sunlight and Shadow analysis.
- Daylight and sunlight access to the south elevation of Block 3. In the Daylight and Sunlight Analysis provided with the application (page 17) the VSC exceeds the BRE threshold for seven of seventeen windows and this confirms serious impact on the residential amenities of these properties.
- No Skyline test was conducted as part of the analysis but the proposed development would be substandard too in this regard.
- The massing would overshadow the communal open space at the north-western quadrant north of the apartment block and it would be poor in amenity potential.
- Balconies at fourth floor level afford views into the private open space and habitable rooms of Block 3 in that it is at the same height as the top floor of Block 3 and loss of sunlight to the open space between the two blocks.
- Morning and afternoon sunlight for the balconies and windows of the lower level units would be most seriously affected.

### Zoning

- It is contrary to the “Z2” zoning objective.
- The proposed development which is very similar to the previous proposal and would be in material contravention of the ‘Z1’ zoning objective in using the existing open space and in overshadowing Block 3

### Parking & Traffic hazard

- Development will result in increased demand for use of on street parking spaces which are in sufficient in supply.
- The appellant party depends on the on-street parking.
- Traffic movements are underestimated in the application as the properties at No 186 Merrion Road and four townhouses have access off the road proposed for the apartment development.

- Will cause traffic hazard as the access is 50metres from the junction with Nutley Lane and a hazard for pedestrians where footfall is heavy will be created.
- The route at Merrion Road Church should be used for pedestrians.
- The proposed development will add to the disruption of other development such as the new maternity hospital to be constructed on the former Gowan Motor site.
- The existing ESB substation would block vehicles using the access.
- Impact on safety of existing residents sharing the proposed vehicular access at Lennon's Cottages.

### Sewage Pipe

- It is possible that there would be insufficient space for maintenance of the sewage pipe across the site.
- Residents already experience low water pressure on a daily basis.

### Flooding

- Site has been designated as an area subject to future flood risk.
- Concerns regarding the refusal of future insurance cover.

### Past Failures to comply

- The proposed development should be refused permission because the applicant has a record of past failures to comply having regard to section 35 of the Planning and Development Act, 2000 as amended.
- This was a material consideration, the applicant being subject to legal proceedings, in respect of a development permitted under PL 307197 at Herbert Park in respect of the site of the O'Rahilly House at Herbert Park.

### Site Notices

- It should have been clearly indicated in the site notices that the application is to materially alter the historic planning conditions.

### 7.3. First Party Response

- 7.3.1. A submission was received from the applicant's agent which outlines the planning history associated with the subject site, the issues raised by the P.A Ref: 4461/19 & ABP Ref: 307122-20 namely unit mix and impact on Uisce Eireann's assets which they consider have been addressed by reducing the number from 28 units to 25 units and providing a greater unit mix. The submission includes a number of Appendices to support the applicant's response with regard to past failures to comply and a supplementary submission in response to the appeal on sunlight and daylight analysis.
- 7.3.2. The applicant's submission provided a response to third party submissions under the following headings which have been summarised as follows:

#### Scale of Development

- The proposal is not for a very large development as contended in the appellants submission but is suitably scaled to the immediate area and it comes below the indicative site coverage at 28% and plot ratio at 0.78 for the 'Z1' zoning objective and a density of 99 units per hectare but is in a location in which higher densities are promoted along public transport routes.
- The site is at a central and accessible urban location close to transport and a district centre as provided for in the Apartment Guidelines 2020.
- The height is compliant with and, well below the 24m limit for rail hub locations in section 16.7.2 of the CDP with regards to height and that of the adjoining developments at Block 3 and St John's House.
- The majority of the scheme is four storeys or +16.235 m AOD which is well below height of neighbouring buildings at Merrion Village and St. John's House. It does not constitute a taller building.
- Development makes optimum use of a greenfield site and suitably scale in relation to existing pattern of the area.

## Residential Amenity

- Refers to previous ABP decision 307122-20 which concurred with P.A that the development would not have a significant impact on residential amenity in terms of overshadowing and overbearing of properties in Merrion Village.
- The submitted Daylight and Sunlight study Assessment report indicates the proposed development would have no significant impacts on daylight and sunlight to Block 3.
- With regard to VSC the baseline figures for Apartment Nos 49-68 Merrion Village is low due to the recessed windows and presence of balconies.
- It is established in the sunlight and daylight report that minimum overshadowing impacts limited to winter months would affect Block 3 at Merrion Village.
- The sensitive design and siting of the proposed development results in minimum impact on the amenities of these properties and the current proposal has a more positive result for these properties than the previous proposal under P.A. Reg. Ref. 4166/19.
- At least two hours sunlight is receivable on 21st March at 80% of the open space in the northwest corner which is a reduction by 16 % from the predevelopment state but which is compliant with BRE guidance.
- Given the urban context the slight to moderate shadow effect on Merrion Village is acceptable to the planning authority and in the previous proposal the development was deemed not to have significant impact in terms of overshadowing or overbearing impact on Merrion Village.
- With regard to the contention as to the lack of a skyline study, it is stated that the use of the VSC study is appropriate in assessing both the baseline state and projected state with according BRE standards, a noticeable effect being a VSC value drop below the value of 27% and a VSC value which is less than 0.8 times the existing value.
- Appellants have provided no evidence that the proposed development would fail a 'no skyline' test.

- The development is sited at an appropriate separation distance from Block 3 and this distance (18.2m) is increased due to the existing tiered design of Block 3 which steps back from the proposed buildings southern elevation. Orientation is such that outlook of windows looking south is not direct to the proposed block on the eastern section for the site.
- The siting and layout of the proposed building located on the eastern part of the site respects the setting of Block 3 and as such the orientation enables the natural aspect of windows facing south to bypass the proposed development to a large extent reducing any potential impact on residential amenity.
- All mitigation measures set out in the Construction Management Plan will be adhered to by the applicant.
- No.69 Merrion Village is located 25m from the proposed development at its nearest point as a result the impacts on the property and its garden would be negligible.
- The open space adjoining Block 3 is unchanged in configuration but enlarged with replacement of the tennis court with landscaped space improving the outlook from south facing units in Block 3.
- 50% of the site area in the northwest corner is to be landscaped and dedicated to communal open space for residents and it insures adequate separation distance from existing development.
- The development is consistent with the CDP's provisions in section 16.2.2. (Infill Development) 4.5.4.1. (Approach to Taller Buildings) and 16.4 Density Standards) and with Section 28 SUDs guidelines.

#### Open Space & Previous Permissions

- A legal opinion has been submitted with the applicant's appeal submission which states if the application is granted permission on appeal, it would supersede the planning history relied upon and there could not be any conflict between the planning history and the permission.

- Dublin City Council Enforcement Report submitted which concludes the pavilion had been used by non-residents of the apartments since 1982, and the file was closed in 2001.
- Letter attached from applicant stating he purchased the site in March 1999 and that the subject site and Merrion Village were two separate entities.
- The Pavilion is entirely separate from Merrion Village and under separate management and insurance and residents do not contribute to in in costs of service charges.
- Historic planning permission at the site refers to the pavilion as a 'recreational amenity block' but does not explicitly note the pavilion contributes to or constitutes to communal open space or amenity for the exclusive use of Merrion village to ensure the development complies with planning standards.
- Reference is made to previous planner's report on P.A Ref: 4461/19 which acknowledges the pavilion and tennis courts were part of the Merrion Village development but that over the years the facilities have been allowed to fall into disrepair and limited use.
- The proposed development includes a gym and studio run by an external operator which would be run on a similar basis to the pavilion since 1982 and would be accessible to residents of Merrion Village and will not compromise the level of recreational amenity afforded to residents in Merrion Village.
- Applicant has committed to making a financial contribution to Dublin City Council in lieu of the loss of open space in accordance with Section 16.10.3 of the CDP.

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- It is not accepted that assessment of the prior application was not taken into consideration in the current proposal. (P. A. Reg. Ref.4461/19 / PL 307122 refers.)
- An explanation (quoted in full) was provided on the Commission's order for omitting two of the recommended reasons for refusal of permission in the inspector's report.

- It is clear that the applicant and the planning officer acknowledged the reason that was attached to the Commission's order regarding dwelling mix and the issues with regard to access to the Irish Water assets, a Confirmation of Feasibility Letter having issued with Irish Water having confirmed that the current proposal is acceptable to it.
- Precedent for acceptability of the current proposal was set by the previous proposal. A statement in the Inspector's report on the previous proposal as to open space in the Merrion Village development being public open space is rejected, it being stated that Merrion Village is a private gated residential community.

#### Parking provision

- 27 basement parking spaces and two accessible spaces (at surface level) for the twenty-five-unit development accords with Apartment Guidelines and the 44 cycle spaces at surface level exceeds development standards and is accepted by transportation section.

#### Traffic

- The entry point is appropriately designed to allow for two cars to pass at the gate.
- Drawing TA 003 the access allows for simultaneous entry and exit by cars, with adequate sightlines.
- The relocation of the ESB substation will not hinder access at the entrance.
- The submitted TTAA, which was based on an anticipated worst-case scenario was accepted by the planning authority and shows negligible impact on traffic conditions.

#### Past Failures to comply

- Legal opinion attached outlines having regard to section 35 of the Act, it would be unlawful for the Commission to refuse permission.
- The appellants reference to Herbert Park is a separate legal entity, there is no question as to material contravention of the parent permission preserving the land for amenity use by Merrion village it being noted that the Pavilion was

used by members of the public since 1982 with an enforcement file to this end held at the planning authority being closed.

- With regard to material contravention of the original parent and amending permissions the statements in the response to the appeal are supported as in that the Pavilion is not integral or fundamental to Merrion Village and that the site is therefore not sterilised from further development with there being no conflict with the historic grants of planning permission which were implemented.

### Conclusion

- The proposal is consistent with national, regional and local policy and would deliver a mix of high quality residential apartments at an accessible and well serviced location.
- The development would not compromise the level of recreational facilities afforded to the residents of Merrion Village, with the existing provision of open space increased at the location, consolidating that existing at present and overlooked by Block 3 residents.
- The proposed development has been amended to take into account the reason for refusal in ABP Ref: 307122-20 in terms of mix of units and Uisce Eireann's concerns and the Commission considered the previous proposal acceptable in terms of recreational amenity, open space provision, residential amenity and access.

## **7.4. Observations**

7.4.1. An observation was received from Joan O'Beirne, on behalf of Merrion Village Management (Phase 5) CLG. This observation generally reflects the observations made to the planning authority and is summarised as follows:

- Proposed development is contrary to the zoning objective on the following grounds:
- Overdevelopment and excessive height and overbearing impact,
- Impacts on residential amenities – overlooking and overshadowing and overbearing impacts.

- Having regard to the submitted Daylight and Sunlight analysis which shows VSC above the BRE threshold for seven of seventeen windows and will overshadowing open space in the north of the building and block 3 (in Merrion village).
- Lack of clarity of separation distance from boundaries.
- The open space in the northwest corner of the site (included as communal amenity space) was originally open space provision for the Merrion Village, a separate development. The applicant intends to build over existing open space.
- The proposed would cause additional traffic generation on Merrion Road affecting the amenities of the Merrion Village development.
- Properties at Merrion Village would be devalued.

## **8.0 Response to Section 131 Notice**

### **8.1. Third Party**

- 8.1.1. Responses were received from the Secretary of the Merrion Village Residence Association, the Residents of Block 3 Merrion Village and Breeda Jones of 69 Merrion Village to the Commission's 131 notices following the High Court Order on the following summarised grounds:

#### Merrion Village Residents Association

- Belfield/Blackrock to City Centre Core Bus Corridor Scheme Compulsory Purchase Order 2022 has been made since the court order which will have traffic implications for the residents leaving Merrion village onto Merrion Road, which will add to greater traffic congestion for the residents.
- The development at No.143 Merrion Road (to south east of appeal site) is nearing completion which will have consequences for traffic onto Merrion Road.
- The Circle K petrol station has a 'For Sale' sign erected and the future development of this site has implications for traffic onto Merrion Road.

### Residents of Block 3 Merrion Village

- This submission reiterated the two previous appeal grounds to the original appeal namely; the precedent of loss of communal space and impacts on residential amenity with regards to height, scale, massing, orientation, impact on daylight and sunlight, overshadowing, overbearing and loss of privacy.

Further additional comments included the following:

- Site lies within Flood Zone A & B in the 2022-2028 Strategic Flood Risk Assessment and it is unclear as to how it complies with the Justification Test as a result of the loss of existing 100m<sup>3</sup> of flood storage and Dublin City Development Plan 2022-2028 & Flood Management Guidelines.
- Proposed development does not include an open space audit to address the permanent loss of communal open space for the residents of Merrion village and whether the remaining open space is usable and sufficient and complies with Section 15.9.8 of the CDP.
- In the absence of compensatory open space provision for the residents of Block 3 of Merrion Village the proposed development is contrary to the Design Standards for New Apartments.
- The proposed development would be contrary to SPPR 1 of the Sustainable Residential Development & Compact Settlement Guidelines as it impacts on the residential amenity of Block 3 due to inadequate separation distances.
- Daylight impact analysis is inconsistent with BRE Guide and underestimates the impact of the proposed development received by the residents of Block 3.
- Daylight analysis of development was based on withdrawn standards and is not consistent with the European Standard For Daylighting in Buildings (2018), or under the National Annex of the British Version of the document BS EN 17037 (2019) as required in the Design Standards for New Apartment Guidelines and Appendix 16 of the Dublin City Development Plan 2022-2028.
- The need to increase housing output at an accessible location should not take precedence over other considerations and at the expense of existing residential amenity.

### Breeda Jones of No.69 Merrion Village

- Refers to previous submission to the appeal being relevant namely; materially contravenes planning conditions attached to the original Merrion Village development, loss of lands for amenity use, impact on residential amenity, and scale and bulk of development.
- Noise and disturbance during construction works and impact on quality of life due to proximity of site to dwelling.
- Entire site is located in either a flood zone or defended area according to City Development Plan 2022-2028 and should be subject to a Justification test.

## **8.2. First Party**

- 8.2.1. The First party response sets out the consistency of the proposed development in respect of the current planning policy framework and relevant plans and guidelines which have been adopted since the submission of the application in 2021 and its subsequent appeal.
- 8.2.2. This includes the Draft Revised NPF, Draft Revised NPF, National Climate Action Plan 2024, National Biodiversity Action Plan 2023-2030, Transport Strategy for the Greater Dublin Area 2022-2042, the Compact Settlement Guidelines 2024, and Dublin City Development Plan 2022-2024.
- 8.2.3. With regards to Table 15.1 in Section 15.2 of the Dublin City Development Plan 2022-2028 additional documentation to the original planning application was submitted which included:
- Demolition Justification Report,
  - Surface Water Technical Note,
  - Basement Report,
  - Architectural Letter, and
  - Sunlight & Daylight Assessment.
- 8.2.4. The applicant's response to the Section 131 notice is summarised as follows:

### Draft Revised NPF

- Proposed development would align with the Draft NPF, as it's a brownfield site in close proximity to major transport hubs and would assist in delivering housing to achieve the increased national revised housing targets.

#### National Climate Action Plan 2024

- Proposed development promotes a compact form of development on a serviced site adjacent to a Bus Connects Corridor and within 500m of a DART station with appropriate levels of car and bicycle parking, all which contribute to reducing emissions.

#### National Biodiversity Action Plan 2023-2030

- Landscaped area would include a range of plants and varied native tree species which would provide a biodiversity gain to the site.

#### Transport Strategy for the Greater Dublin Area 2022-2042

- The proposed development would provide 1 car parking space per unit and would encourage active travel and the use of public transport close by.

#### Sustainable Residential Development & Compact Settlement Guidelines 2024

- SPPR 1- Development provides separation distances in excess of 16m in accordance with SPPR1.
- Density of 99 units per hectare is in accordance with 'City Urban Neighbourhood' locations.
- SPPR 2- Development provides 50% of the site area for communal open space which exceeds the 15% of net area in Policy & Objective 5.1. Considers this is acceptable under the provisions of SPPR2 and a contribution in lieu of public open space is agreeable to applicant.
- SPPR 3- Development meets the maximum rate of 1 space per unit with 2 additional accessible spaces at ground level for visitors.
- SPPR 4- Development provides 44 no. bicycle spaces at basement level and 12 at surface level, which accords with SPPR 4in that 44 of the spaces would have storage.

#### Dublin City Development Plan 2022-2028

- The zoning for the site has not changed since the previous Plan and remains zoned as Z1 which permits residential, sports facilities and recreational uses.
- Development in accordance with DCDP with regards to density, makes use of an underutilised site, is of a high standard of design, is consistent in height with Merrion Village and St. John's House, and supports the core principles of the 15 minute city.
- Development is assessed with regards to policies contained within Chapter 5 of the DCDP.
  - 25% of all units are designed in accordance with Universal Design Guidelines
  - 48% 1 – bed & 52% -2 bed align with unit mix standards
  - All units meet Apartment Guidelines & DCDP standards.
  - 72% of the apartments exceed the minimum size requirements by 10%
  - 2 units provided for social housing
  - All units are provided with amenity space in the form of terraces or balconies in accordance with Development Plan sizes.
  - Provision of gym & 50% of site area for communal open space for future occupiers.
  - Development compliant with 70% green blue roof coverage for the development.
  - Demolition report submitted.
  - Proposed development meets car parking requirements with 25 spaces for the development and 2 visitors parking spaces.
  - Applicant is willing to accept a condition requiring the provision of EV charging points to serve the car parking in accordance with DP.
  - Development exceeds bicycle parking .
  - Density, plot ratio and site coverage in compliance with DP.

- Height is generally in compliance with Building Height guidelines, and the 5<sup>th</sup> floor is considered appropriate given site's location next to public transport corridor.

#### Additional issues raised to the remittal by third parties

- Depreciation of property values unsubstantiated and was not considered an issue by the Commission on previous application ABP Ref: 307122-20.
- Reference made to legal submission submitted with appeal response on property depreciation.
- Reiterates reference to the third parties submissions regarding the conditions attached to previous permissions, and that the conditions do not require the retention of the pavilion or recreational space or preclude the removal of these conditions in any subsequent application and that the facilities have not been used by the residents of Merrion Village for in excess of 20 years.
- Reference is made to the P.A's consideration and the Commission's decisions with regards the pavilion, and the red line boundary can be considered as a separate planning unit.
- The pavilion and tennis court are separate to Merrion Village and are of no amenity value to the residents.
- The proposed gym and studio would have limited membership offered to the public which the residents of Merrion Village could avail of as amenity should they wish to do so.

### **8.3. Third Parties response to Applicant's submission**

- 8.3.1. The Commission notified the third parties of the applicant's Section 131 response. Two further submissions were received, one on behalf of the residents of Block 3, Merrion Village, and one from the Merrion Village Residents Association. These are summarised as follows:

#### Block 3 Merrion Village

#### Consideration of the loss of open space

- The High Court order on the previous decision does not extinguish the planning concerns in the third party appeal and the Commission are required to determine the appeal de novo.
- Submit the Commission are not precluded reaching an independent conclusion on the amenity question in their determination as the policy framework has changed since ABP-307122-20 was assessed, amenity question was never formally determined, and the historical evidence regarding the dispute open space was not available in ABP-307122-20.
- Commission is required to assess the amenity impacts and is constrained by the previous decision by ABP (Narconon & Porter cases are referenced), and new archival evidence is before the Commission regarding the open space.

#### Cannibalisation of open space

- Open space area to serve the proposed development is space that already serves Block 3 and cannot be legitimately relied on for the proposed development.
- The applicant's planning report (P.A Ref: 2435/21) omits the planning history associated with Merrion village, 3971/81 and 4657/82 despite both application site boundaries overlapping with the current appeal site.
- P.A Ref: 3971/81 related to Blocks E, F and G of Merrion Village and Block G was redesigned as Block 3 under 4657/82. The site layout plan submitted as part of this application clearly identifies the landscaped area to the south of Block 3 which falls within the current appeal site.
- A diagram of the proposed development relative to the Block 3's open space area is submitted indicating an overlap of both areas.
- Residents of Block 3 have experienced an erosion of their open space provision over the years with the loss of the tennis courts and pavilion which is further being eroded by the proposed development.
- Notes the applicant's argument that no condition was attached to the Merrion development which prohibited demolition of the pavilion or 'sterilised' the lands to prevent future applications for development. However, taking this to a

logical conclusion, this would mean any residential communal open space that is not sterilised is vulnerable to development, which cannot be a correct planning position.

- When planning permission was granted for Merrion Village, the open space area did not require a standalone condition to protect it as it was embedded in the overall planning application, documentation and plans.
- The applicant's argument has no basis in planning law or practice and its consequences would be far reaching for established residential communities.
- Residual open space for Block 3 has not been assessed.
- The proposed development would result in a substandard and insufficient open space for Block 3.
- Scheme claims to provide 50% open space of the overall site area but a substantial portion of this space already exists and serves an adjacent residential community.
- The Inspector in the previous appeal ABP Ref: 307122-20 was concerned about the loss of open space and general amenities afforded to the Merrion Village and Lennon's Cottages and that it would set an undesirable precedent.
- Proposed development puts at risk the loss of amenity space across all established residential developments.

#### Daylight & Sunlight

- The approach taken in the Daylight & Sunlight Assessment (Nov 2024) does not properly reflect the recommendations of the BRE Guidelines.
- It is not accurate to describe any conventional window in an existing building receiving less than 27% VSC as 'Bre Complaint', as this gives the impression that daylight will remain adequate in some existing rooms after the construction of the proposed development when this may not be the case.
- Development does not clearly outline the true impact of the development on daylight access to neighbouring residences, particularly Merrion Village and is not consistent with the BRE guidelines.

- The submitted daylight analysis generally assumes the use of brighter reflective values for internal surfaces and ground cover that exceed the recommended for both EN 17037 and the BRE guide which inflates the daylight performance of the scheme, and is an unreliable basis for the Commission to determine the appeal.

#### Merrion Village Residents Association

- Overdevelopment of the site.
- Adverse effects on neighbouring properties.
- The relocation of the sub station remains vague.
- Merrion Road, is a busy road and experiences heavy traffic from both the petrol station and church.
- Residents already experience traffic problems accessing onto Merrion Road.
- New cycle lane operating from Rock road which leads to a further back up of traffic along Merrion Road, in addition to 63 apartments at 143 Merrion road
- The size of the gym and studio would not cater for the number of users na dis unrealistic.
- Area has been identified by Gamma Location Intelligence as an area in the future at risk of flooding, and policy holders in Merrion Village have been denied appropriate cover in this regard.
- Impact on safety for pedestrians, residents of Lennon's Cottages, with the vehicular access onto Merrion Road and the lack of a footpath.
- No pedestrian entrance lobby at street level for future occupiers of the development.
- Volume of traffic has been underestimated and no allowance for the entrance malfunctioning in an emergency situation.
- Public Liability for future Management Company would be a concern due to safety risks for pedestrians.

- Contrary to policy QHSN17 of Development Plan as pedestrians, wheelchair users have to share the underground car park ramp with vehicles which is unsafe.
- Size and density does not provide for social, affordable and cost rental housing and contrary to policies QHSN34 and QHSN37.

#### **8.4. Planning Authority Response**

8.4.1. No response received from the P.A.

### **9.0 Assessment**

#### **9.1. Introduction**

9.1.1. Having examined the application details and all other documentation on file, including all the submissions received in relation to the appeal, and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal relate to the following:

- Principle of Development
- Density, height and scale
- Residential Amenity
- Traffic and parking
- Flooding, and
- Other issues

#### **9.2. Principle of development**

9.2.1. Third parties have raised the concern that the proposed development would result in the loss of the pavilion building and amenity area, which were required to be provided in previous planning permissions, for the residents of the Merrion Village development. In their submission they refer to a number of precedents and case law. I note the cases referred to in their submissions, however, I am of the view that each planning application is considered on its own merits.

9.2.2. The applicant included a legal interpretation of the conditions attached to the Merrion Village development and concludes that while the parent permission and subsequent amendments for the Merrion Village development may have referred to the pavilion for recreational use, the provision of same was not required at the time of the permissions and did not preclude future applications on the site. It is their opinion that the red line boundary can be considered as a separate planning unit.

Loss of amenity area to Merrion Village

9.2.3. From my site inspection I noted there is a pedestrian access to the pavilion building and the subject site via a security pedestrian gate from the Merrion Village development. I also noted there was a sign close to this gate at Block 3, prohibiting non-resident parking for the gym, which would suggest to me the pavilion building is used/has been used by non-residents. Access is also possible to the pavilion building and subject site via a security vehicular gate from the petrol station forecourt off Merrion Road. It is not possible to access the pavilion or tennis courts from Lennon's Cottages.

9.2.4. Third parties have submitted the planning permission associated with the Merrion Village development. The parent permission (P.A Ref: 4020/78) for the Merrion Village development made by Sheeling Homes Ltd., was for 9 two storey houses and 87 apartments in 5 blocks with ancillary works. There were no plans submitted with this decision notice and no reference to a pavilion or amenity area, but condition 1 required the development to be carried out in accordance with the plans and particulars.

9.2.5. In 1981 (P.A Ref: 1471/81), Sheelin Homes Ltd., were granted a split decision by the P.A which granted planning permission for an indoor recreational centre but refused permission in respect of alterations to Blocks E & F at 204-206 Merrion Road, which would suggest the recreational block formed part of the Merrion Village development at this time.

9.2.6. The appellants consider the proposed development would be contrary to condition 4 attached to P.A Ref: 1471/81. Condition 4 of this permission stated, 'The proposed recreational amenity block to be used only for recreational purposes as indicated in the lodged plans, and to be used only (my emphasis) for the purposes for the residents of the overall residential development (known as the Merrion Village) of

which it forms a part and not for general commercial public use'. The reason for this condition was to safeguard residential amenity. This condition would suggest that at this time the pavilion was for the sole use of the Merrion Village development.

- 9.2.7. In a later planning permission P.A. Ref: 660/82, for a recreation and amenity building (alterations to approved plans) conditions 4 and 5 specified that the proposed recreational and amenity block shall be used for recreational purposes only, and used primarily (my emphasis) to serve the residents of the overall Merrion Village development of which it forms a part, and limited membership to non-residents. It is clear in this permission that membership of the pavilion was not restricted to residents of Merrion Village only.
- 9.2.8. The appellants state that the pavilion building was used on a commercial basis which meant it was not used solely by the residents of Merrion Village, and that overtime the residents had restricted use of the area. They make reference to the previous Inspector's decision for development on the site (ABP Ref: 307122-20), for 28 units in which the Inspector considered the development would contravene the terms and conditions of the parent planning permissions for Merrion Village and Lennon's Cottages, under which the land the subject of this appeal was set out as an area of open space and amenity facilities serving the overall Merrion Village estate, and open space and car parking serving Lennon's Cottages.
- 9.2.9. The applicant conversely refers to the Commission's conclusion which overturned the Inspector's recommendation on ABP Ref: 307122-20 stating the Commission was satisfied that the proposed development would not lead to an unacceptable impact on the recreational amenities of the residents in Merrion Village or of Lennon's Cottages. The applicant also makes reference to an Enforcement Officer's report in 2001 regarding the use of the pavilion by non-residents of the apartments since 1982 and that no action could be taken regarding the use of the pavilion. However, the issue of enforcement is not a matter for the Commission and falls within the jurisdiction of the planning authority.
- 9.2.10. The appellants make reference to 2 further planning applications P.A Ref: 3971/81 and P.A Ref: 4657/82 which relate to alterations to the Merrion Village development and indicate the tennis court and proposed amenity block (pavilion) under construction and a children's play area on the subject site lands. These applications

according to the appellants were retrieved from the archives and are not referenced in the P.A report and are not available on the Council's website. I cannot conclude from the extracted plans that these areas were to be provided as part of the Merrion Village development, and the appellants have not provided any conditions attached to these permissions to confirm same.

9.2.11. The appellants in their further latter submission include a statement from the planner's report on P.A Ref: 4657/82 for the redesign of Block 3 which in summary outlines that the open space to the rear of this block, is in accordance with the previous parent permission, and have included a plan which indicates the current proposal's red line area encroaching onto the previous open space area. From the submitted layout from the appellants, I note part of the proposed development would encroach onto a triangular area of land to the side and rear of Block 3's car park, but I would not consider this a usable or valuable area of open space. There is a further area immediately to the rear of Block B but within the red line of the application site which is also indicated by the appellant as being part of the amenity area for the Merrion Village development. It is not proposed to build on this area in the proposed development and as such it forms part of the open space for the appeal development. I note the appellant's contention that a grant of planning permission in this instance would establish a precedent with regards to existing communal open space being vulnerable to appropriation by subsequent development on adjoining lands not subject to a sterilisation agreement. I do not agree with this assumption, as each planning application is considered on its own merits.

9.2.12. The applicant has stated they are the owner of the majority of the subject site since 1999 and hold a right of way in separate ownership over part of the site which extends along Lennon's Cottages and the petrol station forecourt. A letter has been enclosed with the application from the owner of the Lennon's Cottages lands consenting to the planning application. The red line area does not include the petrol filling station forecourt. In terms of the legal interest, I am satisfied that the applicant has provided sufficient evidence of their legal intent to make an application. Third parties have not provided any evidence disputing the applicant's title over the land. Any further legal dispute is considered a civil matter and is outside the scope of the planning appeal and is a matter to be resolved between the parties, having regard to

the provisions of Section 34(13) of the 2000 Planning and Development Act as amended.

- 9.2.13. I note the appellants concerns about the loss of the pavilion and tennis court, however, following my site inspection I am of the view that the tennis court is no longer in use and the pavilion building and surrounding grounds are in a state of neglect and are not easily accessible for the residents of Merrion Village, and as confirmed by the appellants submissions, the site is no longer used as an amenity area by the residents of Merrion Village. The P.A when determining the current development on the site took a similar view in this regard.
- 9.2.14. The conditions attached to the Merrion Village development do not specifically refer to the provision of a tennis court/amenity area or pavilion to be provided for the development. However, condition 1 of the parent permission stated the development shall be carried out in accordance with the plans and particulars as submitted. Unfortunately, given the time period in which the parent permission was granted planning permission, there is no plan available to check whether the subject site was to be provided as an amenity area for the overall development. I therefore default to the P.A in this regard who did not consider in their decision on the proposed development (P.A Ref: 4461/19) on the subject site that it would result in a loss of an established amenity area for the residents of Merrion Village.
- 9.2.15. I therefore do not consider the redevelopment of the site would result in a loss of an existing amenity area for the residents of Merrion Village, as it has overtime become severed from Merrion Village and is now a partially underutilised brownfield site. The site has been in the ownership of the current applicant since 1999 and as such the residents of Merrion Village do not, unless permitted by the current owner, have access to these lands for amenity use.
- 9.2.16. Merrion Village is a relatively high-density development with limited incremental green areas throughout. This is acknowledged to an extent by the applicant who has stated they are agreeable to a special development contribution towards open space provision. Although there are no large open space or play areas available within the Merrion Village development, I note there are a number of public amenity areas in the area. I therefore consider the residents of Merrion Village are within walking distance and have public access to a number of public amenity facilities in the

vicinity and given the residents can no longer access the subject lands, they would not be prejudiced by the loss of the area.

- 9.2.17. The applicants have stated they are willing to contribute to a development contribution towards open space provision. Condition 3 of the P.A's decision notice required a contribution of €100,000 in lieu of the public open space provision, which is to be paid prior to the commencement of the development. Section 15.8.7 of the current DCDP requires financial contributions in lieu of open space towards its provision elsewhere, or having regard to existing provision in the vicinity, the needs of the population would be better served by the provision of a new park in the area or the upgrading of an existing park. I therefore would recommend if the Commission are minded to grant planning permission a condition is attached requiring a financial contribution towards open space provision.

### Zoning

- 9.2.18. The site is located on lands zoned as Z1 'Sustainable Residential Neighbourhoods' within the current DCDP 2022-2028, with an objective 'To protect, provide and improve residential amenities.' Residential, sports facilities and recreational uses are permissible within this zoning. Policy CS07 of the DCDP encourages the development of underutilised and brownfield sites, with a view to consolidating and adding vitality to existing centres and ensuring the efficient use of urban lands.
- 9.2.19. The applicants have stated the proposed development would provide an element of recreational activity in the form of a gym and studio with a limited membership offered to the public, and the residents of Merrion Village could avail of the facility should they wish to do so. I note Z1 zoning permits 'sports and recreational uses', however I would have concerns if the proposed gym was used by members of the public on a general basis. The applicant has not specified for example the hours of use or membership numbers other than to state it would be 'limited' and I would therefore have concerns should the gym be used by members of the public, it would have an impact on residential amenity for existing and future residential occupiers, in terms of noise and disturbance, car parking and traffic. I would therefore recommend if the Commission were minded granting planning permission for the development the gym and studio would be used only by the residents of the

proposed development, to protect the residential amenity of existing and future residential occupiers.

- 9.2.20. The appellants have stated that the proposed development does not include a community and social audit and is therefore contrary to the current Development Plan. Policy QHSN48 of the Development Plan requires a Community and Social Audit for residential applications comprising of 50 or more units and as this development is for 25 apartments a community or social audit would not be required and as such would not materially contravene the Plan. Given the site's location, the proximity of existing community and social facilities in the area, such as the Merrion Shopping Centre, St. Vincents hospital, the number of sports grounds and parks in the immediate area, I am satisfied a community or social audit would not be required in this instance.

### Conclusion

- 9.2.21. The subject site is currently an underutilised brownfield site with the pavilion building partially in use as a private gym on zoned lands considered suitable for residential development within the Development Plan. I note the concerns of the appellants regarding the use of the subject lands for amenity use for the Merrion Village development, however I consider this aspect is outside the remit of the Commission's consideration as outlined above. I therefore consider a residential development and gym and studio for the future occupiers of the development is acceptable on the site subject to the detailed considerations below.

## **9.3. Density**

- 9.3.1. The proposed development is for 25 apartments on 0.25 hectares. This equates to a density of 99 units per hectare. Policy QHSN10 of the DCDP promotes residential development at sustainable densities throughout the city in accordance with the Core Strategy, particularly on vacant and or/underutilised sites having regard to the need for high standards of urban design and the character of the surrounding area. The Core Strategy indicates there is a capacity within the city required to accommodate 40,000 residential units over the lifetime of the Plan. Section 15.5.5 and Appendix 3 of the Plan supports higher density development in appropriate locations in accordance with the NPF, RSES and Section 28 Guidelines which seek to

consolidate development, promote compact growth and prevent urban sprawl within existing underutilised lands in urban areas.

- 9.3.2. The proposed development is located within Dublin City and, Merrion is identified in Figure 5-1 of the Development Plan as one of many key neighbourhoods within the city. However, Merrion but does not fall within a Key Urban Village in the DCDP settlement strategy and lies outside the canal loop. Table 1 of Appendix 3 of the Plan sets out density ranges in the city and for outer suburb sites such as the proposed site and supports densities of 60-120 units per hectare. The proposed development would fall within this density range having a density of 99 units per hectare.
- 9.3.3. Although the site lies outside the canal loop of the city, I consider the site falls between an Urban neighbourhood and Suburban/Urban location of the city as categorised in Table 3.1 of the Compact Settlement Guidelines. This table recommends a residential density in the range of 50 dph to 250 dph (net) in the urban neighbourhoods of Dublin and 40-80 dph (net) at suburban and urban locations in Dublin and that densities of up to 150 dph (net) shall be open for consideration at 'accessible' suburban /urban extension locations as defined in Table 3.8 of the same guidelines. Accessible locations are defined within these guidelines as lands within 1km walking distance of an existing or planned public transport node, which includes the DART, or lands within a 500m of a high urban bus network.
- 9.3.4. The Sydney Parade Dart station is located within 130m of the subject site and the site is located adjacent to the Merrion Road Quality Bus Corridor and the proposed Blackrock to Merrion Bus Corridor. I therefore consider the site is in an accessible location and could accommodate a density above 40-80 dph and up to 150 dph, subject to all other criteria being met, which includes the character and scale of the prevailing area. The proposed development would therefore meet the density standards in the Compact Settlement Guidelines and Table 1 of Appendix 3 of the City Development Plan.

#### Plot ratio and site coverage

- 9.3.5. Table 3 of Appendix 3 of the DCDP has an indicative plot ratio for an outer residential area such as the subject site of 1.0-2.5 and a site coverage of 45-60%. The proposed development would be below both standards having a plot ratio of

0.78 and a site coverage 31%. I however consider this acceptable given the mixed character of the area.

### Height and Scale

9.3.6. In the City Development Plan outside of the canal ring, in suburban areas, heights of 3 to 4 storeys are promoted as the minimum. Greater heights will be considered on a case by case basis, having regard in particular to the prevailing site context and character, physical and social infrastructure capacity, public transport capacity and compliance with all of the performance criteria and 10 objectives set out in Table 3 of Appendix 3. This table sets out performance criteria in assessing proposals for enhanced density and scale. Although I do not consider the proposed development exceeds the density for this area, as outlined above, I have assessed the development in accordance with the 10 objectives set out in this table as follows:

#### 1. Promote Development with a sense of place and character

9.3.7. The prevailing character of the immediate surrounding area to the subject site is mixed. Merrion Village immediately to the north and north west comprises 2/3/4/5 and 6 storeys, St.John's House to the east is 3 storeys, the properties in Merrion Road and Lennon's Cottages to the west are 2/3 storeys with the Merrion Inn and petrol filling station to the south of the site being two storeys and single storeys in height respectively. The proposed development would comprise a 4/5 storey building, with the 5<sup>th</sup> storey being recessed at the northern element of the development. It would have an overall height of c19m to parapet level reducing to 16.325m (4th floor height) along the southern elevation (Merrion Road).

9.3.8. The four storey element of the development when viewed from Merrion Road would have a similar height to St.John's House to the east. The fifth storey would be c. 3m higher than St.John's Nursing House and the Block 3 Merrion Village to its immediate north but would be c.1m lower than the taller blocks in Merrion Village development further to its north. The development in terms of scale is reflective of the Merrion Village development and St.John's House. It would, however, be higher than The Merrion Village pub and the petrol filling station to its south but would not appear prominent when viewed from Merrion Road due to a c.30m setback and the Merrion Village development to the north. The development would be set in from

between 17-23m from the western boundary and therefore in terms of scale it would not impact on Lennon's Cottages or the properties to the west in Merrion Road.

- 9.3.9. The development has been designed to provide for a variety in scale and form and has avoided long slab blocks and includes set back floors and separated blocks along its southern end. I consider the proposed design and scale would be reflective of the mixed character of the area.

#### 2. Provide appropriate legibility

- 9.3.10. The proposed site is a backland site, however it would provide a pedestrian entrance onto Merrion Village and a vehicular access from Merrion Road. The site allows for movement between these two access points via the basement level, reception area and garden spaces.

- 9.3.11. Policy QHSN21 of the DCDP seeks to avoid gated residential developments which excludes the public and local community and prevents sustainable developments. I note a proposed pedestrian gate is to be provided along the site's vehicular entrance and would therefore recommend in the event that planning permission is granted that this pedestrian gate is provided to allow an element of permeability for the proposed development and to enhance permeability for residents in Merrion Village to access Merrion Road.

#### 3. Provide appropriate continuity and enclosure of streets and spaces

- 9.3.12. The proposed development would wrap around a central open space area for the future occupiers of the development. The large open space area to the west would be overlooked by Block 3 Merrion Village, the proposed development and the properties in Merrion Road. The development provides the opportunity for a new pedestrian link from Merrion Road into the development and Merrion Village.

#### 4. Provide well connected, high quality and active public and communal spaces

- 9.3.13. Table 15-4 of Chapter 15 of the DCDP, states that public open space for residential developments should be a minimum of 10% of the overall site area. The development includes a 1,258m<sup>2</sup> communal open space area to the west of the site which would equate to 50% of the site area and would include 2 private gardens at ground level and a gym. The design of the development provides for passive

surveillance of the internal open space areas within the central area between the two blocks which are overlooked by windows and balconies.

- 9.3.14. The pedestrian route through the development provides for a variety of pocket open space areas by the staggered nature of the development, making the route human in scale and provides variety along the western elevation.

5. Provide high quality, attractive and useable private spaces

- 9.3.15. Each apartment would have a useable private space in the form of a terrace or balcony in accordance with the apartment guidelines. The balconies have been designed with railed balustrades to capture daylight. I consider the amenity spaces are appropriate for the site and the development.

6. Promote mix of use and diversity of activities

- 9.3.16. The development would comprise 48% of 1 bedroom units and 52% of 2 bedroom units, which would include 3 no. 2-bedroom duplexes, with 2 units proposed for Part V occupation. The apartment sizes would be in compliance with the Apartment Guidelines. The development would also include a gym and studio. I consider the development provides for a range of unit typologies which could be adapted to different life cycle stages.

7. To ensure high quality and environmentally sustainable buildings

- 9.3.17. All of the apartment units would be dual aspect with 13 of the units being triple aspect. All external areas have been designed in accordance with Part M. The development purposes 350m<sup>2</sup> of sedum roof area. The shared open space area would benefit from a southerly aspect. The Daylight & Sunlight Assessment report indicates the amenity space would receive adequate daylight and sunlight and would not be overshadowed by existing buildings or the proposed development.

- 9.3.18. Overall, I am satisfied the proposed development would be of a sufficiently high quality and in line with environmental sustainability planning requirements.

8. To secure sustainable density, intensity at locations of high accessibility

9.3.19. The site is adjacent to Quality Bus Corridors and the Sydney Parade Dart Station lies approximately 130m to the north of the site. The development site is well served by public transport with high-capacity frequent services with good links to other modes of public transport. I consider the density, plot ratio and site coverage does not exceed the maximum requirements as specified with the DCDP or Compact Settlement Guidelines and is reflective of the prevailing character of the area.

#### 9. To protect historic environments from insensitive development

9.3.20. The site is not located within an Architectural Conservation Area and there are no protected structures or national monuments within the site's curtilage. The land to the west of the subject site is Zoned Z2 Residential Neighbourhoods (Conservation Areas) but the development would be set back from this zoning and would not impact on the Conservation Area. There would be no impact on key views and vistas related to the historic environment.

#### 10. To ensure appropriate management and maintenance

9.3.21. A life cycle report was submitted with the proposed development. The development would be operated by a Property Management Company which would enter into a contract directly with the Owner's Management for the ongoing maintenance of the development which would include landscaping, refuse management, electrical lifts and security of the development. A Construction and Operational Management Plan would be provided prior to the commencement of construction.

#### Conclusion

9.3.22. It is adopted policy at national and regional level to promote compact growth and provide for increased density and height on underutilised lands as it allows land to be used more efficiently, assists in regeneration, minimises urban expansion and maintain the critical mass for services and public transport facilities. The density of the proposed development at 99 u/ph falls within the density range for an outer suburb as specified in Table 1 Appendix 3 of the DCDP of 60-120 u/ph.

9.3.23. The proposed development would meet the guidance on density in the Compact Settlement Guidelines for an accessible suburban/urban location which allows for densities in the range of 40-80dph at suburban and urban locations and up to 150

dph in accessible locations in Dublin. I am satisfied that given the density at the site's location is not limited to 80 dph and that the upper range of 150 dph for urban neighbourhoods in this location would be unsuitable.

- 9.3.24. I consider a 4/5 storey building is reflective of the prevailing Merrion Village development to the north and St. John's retirement home to the east. On balance I am satisfied that 99 uph is a sustainable residential density subject to further consideration of residential amenity impacts, as discussed below.

#### **9.4. Residential Amenity**

- 9.4.1. Third parties have raised concerns about the impact of the proposed development on the existing amenity of the occupiers of Merrion Village and in particular the residents in Block 3 of Merrion Village with regards to overlooking, overbearance, daylight and sunlight, and overshadowing,

##### Overlooking and separation distances

- 9.4.2. The proposed development would be positioned to the south and set back 18.2m (at the closest point) from opposing windows in Block 3 Merrion Village. Block 3 is a staggered four-storey block with a recessed 5<sup>th</sup> floor and has windows and balcony areas along its southern elevation that directly face onto the existing tennis court area. The proposed development would have a staggered profile along its north elevation with balconies and windows serving bedrooms and living/kitchen windows along this elevation on four storeys. The recessed fifth floor would not have windows along the north elevation. The bulk of this elevation (24m) would overlook the car park area to the north with the remaining (18m) facing Block 3 but set back between 18m and 28m from the southern elevation of this block.
- 9.4.3. SPPR1 of the Compact Settlement Guidelines states that when considering a planning application for residential development, a separation distance of at least 16 metres between opposing windows serving habitable rooms at the rear or side of duplex units and apartment units, above ground floor level shall be maintained. The proposed development clearly meets this SPPR which is to be applied in accordance with Section 34(2)(aa) of the Planning and Development Act.
- 9.4.4. SPPR 1 also states that there shall be no specified minimum separation distance at ground level or to the front of duplex units and apartment units in statutory

development plans and planning applications shall be determined on a case-by-case basis to prevent undue loss of privacy. In this regard, I do not consider that there would be any direct overlooking from any of the units along the northern elevation towards Block 3 Merrion Village where the minimum separation is 18m. It is also important to note that the existing green area to the south of Block 3 would be retained, and further planting is proposed to the north of the proposed development, which includes the retention of a mature tree and a further 2 trees which provides an additional buffer from perceived overlooking between both developments at ground floor level. I consider the development has been designed in a modular manner to minimise any impact in terms of its massing and overbearance on Block 3 Merrion Village to the north.

- 9.4.5. The building would be positioned between 10-12m from St.John's House. Although St.John's House which is a retirement home has windows overlooking the subject site, the windows to the proposed development would all be in opaque glazing along the eastern elevation and would not therefore result in overlooking to the windows on the western elevation of St.John's House or a loss of privacy to future residents.
- 9.4.6. The western element of the proposed apartment building would be set in c.17m (at its closest point) from the western boundary, and 14m from the rear north eastern corner of Lennon's Cottages. There are no windows serving habitable rooms on the northern elevation of Lennon's Cottages with a stair core serving the western elevation of the proposed development. Due to the layout of the development there would be no opposing windows overlooking Lennon's Cottages or the properties to the west.
- 9.4.7. One of the blocks to the southern elevation to the proposed development would bound the rear boundary of The Merrion Inn, however there would be no windows on this elevation to this block.
- 9.4.8. The remaining proposed two southern blocks would have principal windows on their southern elevation and would be set in between 1.6m and 4m from the southern boundary and would overlook the petrol filling station and its forecourt. Although these windows would not result in a loss of privacy to the neighbouring use, they could due to their proximity to the boundary, impact the future development potential of the petrol filling station which is currently zoned Z1 in the DCDP.

## Daylight and Sunlight

- 9.4.9. Section 3.2 of the Urban Development and Building Height Guidelines (2018) states that 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. The Guidelines state that appropriate and reasonable regard should be taken of quantitative performance approaches to daylight provision outlined in guides like the *BRE* 'Site Layout Planning for Daylight and Sunlight' (2nd edition) or BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'.
- 9.4.10. This guidance was updated as noted in section 6.6 of the Apartments Guidelines (2023) which makes reference to EN 17037:2018: Daylight in Buildings (European Standard), UK National Annex BS EN17037 and to BR 209 2022, Site Layout Planning for Daylight and Sunlight: a Guide to Good Practice (3rd ed.).
- 9.4.11. Section 5.3.7 of the Compact Settlements Guidelines sets out a different approach to the consideration of daylight and sunlight issues than the one set out in the Building Heights and New Apartments guidelines. The Compact Settlement Guidelines notes that 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 increase scales of urban development. This approach would specifically supersede the previous approach, including that in the Building Height Guidelines, which requires alternative compensatory design solutions to be set out when daylight provisions are not met.
- 9.4.12. Appendix 16 of the DCDP states the planning authority will look to receive relevant metrics from BR 209, BS 8206-2 and BS EN 17037 in assessing sunlight and daylight in developments. However, of relevance to this appeal, the DCDP states that if, over the coming years, a revised version of BR 209 is to be issued, the guidance within this new version will take precedence. The Appendix also notes proposals will continue to be assessed on a case-by-case basis depending on site specific circumstances and location.
- 9.4.13. Third parties have stated the daylight and impact analysis included with the application was based on withdrawn standards and is not consistent with current local and statutory guidance. They consider the Vertical Sky Component (VSC) has

been assessed incorrectly in that it does not assess the proposed VSC against the existing VSC of the window, as required in BRE 209.

- 9.4.14. The Section 131 submission from the applicant was accompanied by an updated Daylight and Sunlight Assessment Report dated November 2024. This report takes into account the updated versions of the Dublin City Development Plan, BRE Guidelines 209 (3<sup>rd</sup> edition) and BS EN17037, including Vertical Sky Component (VSC), Sunlight Daylight Autonomy (SDA), No Sky Line (NSL), and Sun on Ground (SOG) assessment. This Report assesses the impact of the proposed development on Lennon's Cottages, 49-68 Merrion Village (Block 3) and St. John's House. I consider the revised Daylight and Sunlight Report as submitted dated November 2024 has taken into consideration the most up to date guidelines relating to Daylight and Sunlight in accordance with BRE 209 (3<sup>rd</sup> edition) and as specified in the DCDP.
- 9.4.15. The VSC was assessed for the impact of the proposed development on the visible sky from the windows to Lennon's Cottages, Block 3 Merrion Village and St. John's House. A good VSC is considered to have good daylight if it achieves a VSC of 27% and can still be acceptable under BRE if the new VSC value retains 80% of its former value (i.e the reduction is less than 20% of its former value).
- 9.4.16. In terms of VSC, Table Nos. A.1.1 and A.1.4 in the report indicate that 100% of the windows in Lennon's Cottages and St. John's House are in line with BRE guidance i.e greater than 27% VSC or greater than 80% of the existing baseline value. The impact of the proposed development on the daylight for both these properties would be negligible.
- 9.4.17. Of the 26 no. windows analysed for Block 3 Merrion Village south and south east facing), 6 of the windows at ground and first floor level (23%) have an existing VSC rating of below 27% (Gb, Gc, Gd#2, 1b, 1c and 1e#2), Table A.1.2 refers. As a result of the proposed development 4 of these 6 windows would not meet 80% of their former VSC value and would fall within the range of 'minor' to 'moderate adverse' as per the BRE definitions but would not fall below 50% of their existing VSC rating. I note the majority of the windows concerned have overhanging balconies which would impact on the skylight currently received to these windows.
- 9.4.18. An additional assessment was carried out on these windows with the overhanging balconies removed from these windows based on the BRE guidelines which

acknowledges balconies cut out light. In this regard I note the effect of the proposed development would be negligible.

- 9.4.19. In terms of sunlight to existing properties, Tables A.3.1- A.3.6 outline the results for Lennon's Cottages and Block 3 Merrion Village. All the windows assessed in Lennon's Cottages, are indicated as being 100% in compliance with the recommended 25% APSH<sup>1</sup> and 5% WPSH<sup>2</sup> and that the proposed development would have a negligible effect on annual sunlight or winter sunlight hours to the receiving windows. No APSH or WPSH assessment was carried out to St. John's house as it lies due east of the subject site.
- 9.4.20. The proposed development would have a 'minor adverse' effect on APSH for 2 windows (MV-Gc & MV-1c) but not for the winter period in Block 3 Merrion Village. However, I note the existing sunlight hours value for these windows is around c.15 - 16% and they would have a level of compliance of 80% - 86% respectively with the BRE guidelines in terms of APSH as a result of the proposed development. All of the windows in Block 3 would meet the minimum target value of 5% for winter sunlight hours and would be in compliance with BRE guidelines in this regard.
- 9.4.21. The appellant considers it is not accurate to describe any conventional windows in an existing building receiving less than 27% VSC as being 'Bre Compliant', as this gives the impression that daylight will remain adequate in some rooms after the construction of the proposed development, when this may not be the case. The applicant has not provided any VSC assessments of Block 3, to contradict the evidence of the Daylight and Sunlight tests as submitted.
- 9.4.22. I accessed 3 south facing apartments at Block 3 Merrion Village. Two of the apartments were on the second and third floor (Nos. 66 and 62). These are outlined in Figures 10 A.10 and A.11 (MV 3a-3c and MV2a-2d#) of the Daylight and Sunlight assessment. These apartments overlook the existing tennis court area. I consider the windows serving these apartments would not be impacted by the proposed development. The large windows in the rear of both apartments serve living rooms, with the recessed windows either serving a study (3a) bedroom (2a, 3c) or kitchen (2d). I would therefore agree with the submitted Daylight and Sunlight Assessment

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<sup>1</sup> APSH Annual Probable Sunlight Hours

<sup>2</sup> WPSH: Winter Probable Sunlight Hours

Report that the effect of the proposed development on these windows would be negligible.

9.4.23. The third apartment I accessed was No. 50 Merrion Village which is a ground floor apartment to the south east of this block facing south, windows MVGc-MVGd#2 of the Daylight and Sunlight assessment report Figures A.8 & A.9 refer. The windows to this apartment serve a main bedroom and kitchen (Gc), underneath a balcony area, and a living room (Gd#) and a recessed smaller bedroom (Gd#1&2). This apartment overlooks the green area to the rear of Block 3 and is a smaller apartment than the apartments on the second and third floors. I would agree with the findings in the Daylight and Sunlight assessment report that the windows which would be most impacted by the proposed development are those underneath the balcony area which serve a kitchen and bedroom at this level (MV-Gc) on the ground floor. Given these windows serve a bedroom and kitchen I would agree with the Daylight & Sunlight Assessment report that the effect of the development would be minor adverse on these windows. The impact to the living room (MV-Gd#) to this apartment would be 'minor adverse' and it would be 98% in compliance with the BRE 209 Guidelines with regards to VSC. Furthermore, I consider the sloping nature of the rear green space area and the existing tree on the eastern corner of the green area has an impact on the daylight currently received by this apartment.

#### Future Residents

9.4.24. A Spatial Daylight Autonomy assessment (SDA) was carried out for the future development to assess whether the proposed units would receive adequate daylight for habitable rooms. This assessment replaces the Average Daylight Factor (ADF) in the BRE (2<sup>nd</sup> edition). The target for kitchens is 200 lux, 150 lux for living rooms and 100 lux for bedrooms and across 50% of the working plane for at least half the daylight hours. Tables C.2.1- C.2.2 indicate that future residents would enjoy good levels of daylight throughout all the 25 units.

9.4.25. An additional SDA to assess the future development in accordance with I.S EN 17037 was carried out. The criterion under this standard recommends at least 50% of the working plane receives 300 lux for at least half the daylight hours, without tree foliage. It recommends that 95% of the accommodation receives 100 lux for at least half the daylight hours with tree foliage for summer and winter. Table D1.1 indicates

that the majority of the rooms would receive above 100 lux with trees, but there would be a number of rooms within the apartment that would not achieve 300 lux with trees in foliage. However, with the exception of a LKD in both Apartments Nos. 03 and 04 on the ground floor, all of the apartment rooms would achieve 300 lux above 50% during the daylight hours during the winter months (i.e no foliage on trees).

- 9.4.26. In BRE 209, Sunlight Exposure (SE) is recommended as a metric for assessing sunlight within habitable rooms in a proposed development. In this metric a minimum exposure of 1.5 hours for any room within a unit is required. In terms of SE for future residents, the report indicates that 72%, of the units would be BRE 209 complaint, but the units that did not meet the requirement, were dual aspect units and had a predominantly north facing orientation. Whilst there are no specified recommendations within the BRE 209 guidelines for a development, I note that 7 of the units would be below the minimum recommendation.
- 9.4.27. A No Skyline (NSL) assessment was carried out (Tables D.2.1- D.2.2. refer) for the proposed development which indicates that the living room/kitchen and dining room (LKD) to Apartment 04 would receive 77% of skyline and one of the bedrooms to Apartment 10 would receive 79% of visible sky. All of the other units would be in compliance with BRE 209 and would receive 80% and above of visible skyline.
- 9.4.28. Overall, the proposed apartments would receive adequate daylight and sunlight during the summer and winter months. I note the LKD of Apartment 04, would fall below the EN 170371 target for lux levels but it would be complaint with the SDA in the BRE 209 guidelines receiving a 200 lux in the LKD above 50% of the year. This is a ground floor unit with immediate access onto an amenity area and I therefore consider the overall quality of this unit would not be considered unsatisfactory. Overall, I would be satisfied that future residents would enjoy good levels of daylight and sunlight.
- 9.4.29. The third party has made reference to the daylight analysis generally assuming the use of brighter materials than the values recommended by EN 17037. I note the reflectance range is slightly higher for a number of materials, namely paving and the use of render, however, I do not consider the variation in the values are significant, and furthermore both the SDA and SE reports indicate that the level of daylight and

sunlight exposure for future residents of the development are satisfactory and would generally meet the BRE 209 standards, which provides for flexibility in this regard.

#### Open Space

9.4.30. In terms of sunlight to existing gardens and open spaces, a Sun on Ground (SOG) assessment was carried out and are contained in Table A.4.1 and Figures B.1-B2 of the assessment report. This indicates that the open space area to the south of Block 3 Merrion Village would receive at least 2 hours sunlight (80.7%) during the winter solstice on the 21<sup>st</sup> March and exceeds the BRE target of 50%. In this regard, I note that the proposed development accords with the BR 209 (3<sup>rd</sup> ed) guidance and the DCDP and there would be no noticeable loss of sunlight on the neighbouring property's open space area as a result of the development. Overall, I am satisfied the impact on Block 3 is negligible.

9.4.31. For future occupiers the SOG for the amenity areas would receive 91% of 2 hours sunlight in the communal outdoor area to the north west and 84% in the shared garden areas during the 31<sup>st</sup> March. Both areas would exceed the recommended minimum BRE standard of 50% during this period.

#### Conclusion

9.4.32. In terms of overlooking I consider the separation distances between the proposed development and immediate surrounding area have been carefully considered and the development would more than meet the minimum separation distances outlined in the Compact Settlement Guidelines having a minimum separation distance of 18.2m from Block 3 Merrion Village.

9.4.33. In terms of overbearance on the Merrion Village development, I consider the layout and design of the overall development has had regard to the prevailing character of the surrounding area. The proposed development would be predominantly located on the eastern end of the site and opposite the existing car park to Merrion Village. The proposed open space area for the development would be located to the west of the subject site, immediately to the south of Block 3 Merrion Village and to the north of Lennon's Cottages. I consider there are no existing residential amenity issues that would conceivably arise by reason of overlooking or general overbearance.

- 9.4.34. Whilst there would be an impact in terms of daylight and sunlight on 2 of the windows in Block 3 Merrion Village, having regard to the rooms served by these windows, and the location of the development, must be weighed against the overall quality of the design and layout of the scheme, the measures to maximise daylight provision, the location of the site and the general presumption in favour of increased scales of urban residential development.
- 9.4.35. The submitted Daylight and Sunlight Assessment report dated November 2024 has been carried out in compliance with 209: BRE (3<sup>rd</sup> edition) and therefore in accordance with the City Development Plan Appendix 16.
- 9.4.36. On balance, the benefits of the proposed development significantly outweigh any residential amenity impacts on existing residents, or future occupants. In this regard, I am fully satisfied that the proposal would deliver a high standard of living whilst successfully securing the comprehensive redevelopment of an underutilised brownfield site and providing an effective urban design solution.

## **9.5. Traffic and parking**

- 9.5.1. Third parties have raised concerns in relation to the traffic impacts from the proposed development. In particular they contend the development would increase the demand for on street parking and congestion along Merrion Road, and that the traffic report has underestimated traffic movements along Merrion Road, safety of residents in Lennon's Cottages entering the proposed access, and the proximity of the entrance to Nutley Lane would be hazardous, especially for right turning vehicles and for pedestrians.
- 9.5.2. The proposed application was accompanied by a Traffic & Transport Assessment (TTA), which concludes there are no traffic /transportation capacity, traffic safety, servicing or car park operational issues affecting the established network from the proposed development.

### Access into the site and sightlines

- 9.5.3. The proposed vehicular access into the proposed development would be via an existing vehicular currently serving the 3 dwellings at Lennon's Cottages. It is proposed to increase the width of the existing gate at this entrance to 4.8m, to allow 2 cars to pass and, remove the ESB substation closer to the eastern boundary. It is

stated that the gate operating system would include a GSM dialler to allow approaching residents to 'call' the gate on approach so that it is open when vehicles arrive to enter the site. The current pedestrian gate into Lennon's Cottages is to be relocated closer to the eastern boundary.

- 9.5.4. The boundary between the subject site and Lennon Cottages would be widened to provide a shared two way system leading to a basement car park underneath the proposed development to serve 25 cars parking spaces and cycle parking. A STOP sign would be located alongside the vehicular access to the east of one of the properties at Lennon's Cottages. The access ramp into the basement would provide for a one-way system and would be traffic light controlled, with priority access given to vehicles entering the basement. Two push buttons are proposed to be added to the loop system in the car park so cyclists can call the signals when entering or exiting the basement.
- 9.5.5. The Transportation section of the P.A raised an issue that there was a level of ambiguity on the TTA drawings, and the ground floor drawings for the proposed development in relation to the location of the STOP location outside Lennon Cottages. The ground floor layout Dwg No. P-04 shows the STOP sign further north along the access. I consider this a better location than that shown on the TTA drawings as it would have less of an impact on the residential amenity of the residents in Lennon's Cottages and recommend in the event of planning permission being granted revised drawings are submitted clarifying this aspect of the development for the agreement of the P.A prior to commencement.
- 9.5.6. Merrion Road is classified as an urban Regional Road (R118) and is a key arterial route serving the City Centre and is subject to a 50kph speed restriction. It is a single carriageway road as it passes the subject site with footpaths and has on street parking on either side of the access and a bus lane. Beyond the on street car parking along Merrion Road at the entrance to the site is an existing hatched zone area, separating the car parking from the bus and cycle lanes along this stretch of the road. Merrion Road has a central median which breaks opposite the site entrance to enable vehicles to cross over the road into the site on the approach from the south.
- 9.5.7. The distance from the existing gate into the site and to the edge of the car parking is c.5.7m and the distance from the gate to the edge of the bus lane along Merrion

Road is c.7.7m. This would allow vehicles to wait out of the main flow of traffic without blocking the bus lane.

- 9.5.8. It is proposed, subject to the agreement of DCC to remove one of the existing on street parking spaces to the right of the access and relocate it to the left of the exit to improve sightlines to the right on exit from the site. The existing sightlines to the left on exit from the development are good due to the median on Merrion Road. The sightlines to the right are 2m x49m which is allowable under DMURS for busy arterial roads which include bus routes. DMURS accepts that reducing forward visibility is one of the most effective measures used to increase driver caution and to reduce speeds. There would be no loss of on street car parking as a result of the development along Merrion Road and the existing access from the site would be widened and visibility improved.

#### Traffic Impacts

- 9.5.9. The P.A's Transportation Section raised a number of issues regarding the car and bicycle parking layout. They did not raise any concerns in relation to the submitted traffic assessment and accepted the conclusion that the proposed development would generate very low levels of traffic and would result in negligible and unnoticeable change in traffic conditions on Merrion Road. I have reviewed the trip generation associated with the development in Section 3 of the TTA which includes TRICS data for the proposed 25 apartments. Whilst the appellant notes that the data used is not site-specific, I accept that it complies with current TII technical guidance.
- 9.5.10. The TRICS data indicates that the proposed development would generate 6 no. two way trips at weekday AM and PM peaks and 48 no. of trips over a 24 hour period. The report states that the proposed development generates very low levels of traffic during the AM and PM weekday commuter peaks and would have an unnoticeable impact upon traffic conditions and would be sub threshold in terms of the Traffic Impact Assessment Guidelines. Third party concerns that the TTA has underestimated the traffic flows along Merrion Road and at Nutley Lane. I also accept that traffic along Merrion Road would be heavy during peak times, nevertheless, I consider the additional movements from the proposed development would generally be imperceptible on the immediate environs and the wider road network.

9.5.11. The subject site lies within Zone 2 (along key public transport corridors) as indicated on Map J of Appendix 5 of the DCDP. The development is located within an area that is readily accessible to frequent bus services within walking distance to a DART station, is well served by public footpaths and dedicated cycle lanes and is ideally suited to take advantage of alternative modes of travel other than the car.

#### Car parking

9.5.12. Maximum car parking standards for apartments/duplexes within Zone 2 is 1 per dwelling. The relaxation of car parking standards is considered in such a zoning, depending on a number of factors including proximity to public transport services, walking and cycling permeability and range of employment in the area. I consider the subject site is in a location due to its proximity to public transport services to afford a relaxation in parking standards.

9.5.13. The applicant in their Section 131 submission have stated that the development would provide 25 car parking spaces<sup>3</sup> at basement level, with an additional 2 accessible parking bays at surface level to serve visitors to the development. This does not correspond with the basement plan drawing attached to the TTA, which indicates 25 car parking spaces at basement level including an accessible parking space and 2 surface accessible spaces in the north west corner of the site to the rear of Lennon's Cottages stating they would replace existing spaces (Drg Nos. NRB-TA-004 &005). Based on the Section 131 submission by the applicant the development would be providing an additional 2 spaces and the TTA drawing states 2 additional surface spaces are being provided for displaced parking presumably for Lennon Cottages. I consider 27 spaces for the proposed development is not warranted given the DP's maximum parking standards and the site's location.

9.5.14. When planning permission was granted for the Lennon's Cottages development (ABP Ref: 211866) 5 car parking spaces were proposed, 3 along the frontage and 2 in the northeast corner of the development. At the time this permission was being considered the Council car parking standard was 1 space per dwelling, which would have required a total of 3 spaces for the development. The approved car parking layout provided 5 car parking spaces for this development with 2 spaces along the

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<sup>3</sup> The basement plan submitted with the TTA indicates 25 car parking spaces in the basement including 1 accessible space. The TTA states the 2 additional mobility impaired spaces at surface level replace existing car parking spaces (page 9). These 'displaced spaces' would relate to the existing parking for Lennon's Cottages.

frontage and 3 of the spaces located in the north east corner. The proposed development would displace these 3 spaces as approved in ABP Ref: 211866, to accommodate the proposed access into the basement.

- 9.5.15. It is proposed to locate the 2 surface spaces on an area that was indicated as open space in the approved Lennon Cottages development. On the day of my site inspection, I noted the area to be used for these 2 spaces was a grassed area and formed the amenity area in the approved Lennon Cottages development. There was also a car parked to the rear of Lennon Cottages and one in the north east corner of the site. I consider it is important that this amenity area is retained for Lennon Cottages, and that the proposed development does not further encroach this development given the increase in use of the vehicular access to cater for the proposed development.
- 9.5.16. I further consider the 2 surface accessible spaces as indicated on Dwg NRB-TA-005 for the proposed development would be better accommodated within the basement as they would be under cover with a level access to a lift, and would not be impeded by ramps or steps and would therefore be more accessible and convenient for disabled users than surface parking. This would require the basement parking to be reconfigured and may result in the loss of one or two car parking spaces. However, given the site's location I consider 23/24 car parking spaces is more than adequate for the proposed development and would be in compliance with the DCDP which seeks maximum car parking spaces for developments close to good public transport links. There is no requirement for visitor car parking within the DP.
- 9.5.17. I note the Transportation section of the Council had concerns about the 2 existing surface car parking spaces at the entrance to the basement conflicting with service/delivery vehicles and access to the accessible spaces. It was recommended that the proposed car parking provision allowing for additional accessible/drop off parking was considered acceptable subject to the omission of the 2 no. existing surface level parking adjacent to Lennon's Cottages and recommended a revised layout indicating same prior to the commencement of the development.
- 9.5.18. The Apartment Guidelines are not specific in terms of car parking standards other than to note that planning authorities must consider a reduced overall car parking standard and apply an appropriate maximum car parking standard in intermediate

urban locations. The car parking as indicated in the layout drawings for Lennon's Cottages is not as granted for the development, and I consider the 2 proposed surface accessible spaces are to compensate for the loss of spaces to the Lennon's Cottages development.

9.5.19. I would therefore recommend the displaced parking (3 no. as per the approved development) for Lennon Cottages is accommodated in the basement of the proposed development and not as indicated in the current green area to the rear of Lennon's Cottages. In the event the Commission are minded to grant planning permission I would recommend a revised basement layout is submitted to be agreed by the P.A prior to commencement in this regard.

9.5.20. Section 5 of Appendix 5 of the DCDP requires all new development to be futureproofed to include EV charging points and infrastructure, and a minimum of 50% of all car parking spaces are to be equipped with EV charging points and the remaining spaces designed to facilitate future EV infrastructure. The applicant has stated in their latest submission they are willing to accept a condition requiring the provision of EV charging points to serve the development. I recommend in the event the Commission are minded to grant planning permission a condition is attached to ensure the development includes for 50 % EV charging points.

9.5.21. Parking for a gymnasium in Zone 2 as indicated in Table 2 Appendix 5 of the DCDP states it is dependent on the nature and location of the proposed use. The applicant has stated that the gym would be primarily for the use of residents of the proposed development whilst being open to public use. The Transportation section of the Council had no objections to this element of the development subject to the access to the gym only being via the pedestrian gate at Merrion Road. I consider this reasonable.

#### Cycle parking

9.5.22. The basement cycle access would be via the vehicular access ramp into the basement. The proposed development as originally submitted provided 56 bicycle parking spaces, 44 at basement level and 12 at surface level. This would exceed the 51 no. of spaces required under the current Development Plan which requires 1 space per bedroom and 1 visitor space for every 2 units. The Transportation Section of the Council were generally satisfied with the cycle parking provision but

recommended an additional 6 cycle spaces next to the entrance to the gym and a greater separation distance between the proposed basement cycle parking in accordance with Sheffield type cycle stands and recommended a revised layout prior to commencement. Allowing for the additional 6 bicycle spaces required by the Transportation section, and the bicycle standards of the DP for the development the total no. of bicycle spaces would equate to 57 spaces.

#### Service Vehicles

9.5.23. Autotrack drawings for a refuse and delivery van vehicles were submitted within the TTA. These drawings indicate it is possible to accommodate the turning of large vehicles at the site without impacting on other vehicles using the access or egress to the site. Furthermore, the traffic signal system at the basement would provide priority to vehicles leaving the basement. Service vehicles would be able to enter and leave the site in forward gear.

#### Conclusion

- 9.5.24. While direct access onto main arterial routes and public transport corridors is undesirable, particularly in terms of obstruction, the proposed entrance is via an existing route with direct access onto Merrion Road which is to be upgraded and widened and which would allow satisfactory standards at the entrance for cars and service vehicles.
- 9.5.25. The access to the proposed development would be via Lennons Cottages and as the vehicular entrance into Merrion Village is gated and security controlled, I do not foresee the proposed development increasing parking or traffic on the Merrion Village development.
- 9.5.26. The proposed development is located in an area to take advantage of alternative modes of travel to the private car being close to public transport facilities and cycle lanes. I therefore do not consider 27 car parking spaces for the development is necessary and consider the loss of the 3 spaces for the Lennon Cottages development should be accommodated in the basement of the proposed development to protect the existing amenity of this development and not to hinder service vehicles at the entrance to the basement parking. The relocation of 3 spaces for Lennon's Cottages in the basement would reduce the no. of spaces for the proposed development to 22 car parking spaces.

9.5.27. I do not consider that 25 apartments served by 23 car parking spaces and 57 no. cycle parking spaces would significantly increase traffic volumes in the area or endanger public safety by reason of a traffic hazard.

## **9.6. Impact on Sewage pipe**

9.6.1. Third parties have raised concerns that there would be insufficient space for the maintenance of the sewage pipe that traverses the site. The proposed development would be set back a minimum of 4m from the indicated sewage pipe. The P.A had no objections to this element of the development, and Uisce Eireann were satisfied with the development, subject to standard conditions being applied.

9.6.2. I note from the submitted basement report that the proposed basement would not encroach within 4m to the existing sewage pipe. I am therefore satisfied subject to the development carrying out the works in accordance with Uisce Eireann's standards the development would not impact on the sewage pipe.

## **9.7. Flooding**

9.7.1. Third parties have raised concerns that it is unclear how the proposed development meets the justification test required for the development of lands within Flood Zones A & B under the current DCDP. The planning application was submitted with a Flood Risk Assessment and included a Justification Test in accordance with the Flood Risk Management Guidelines.

9.7.2. There has been a minor change in the flood zoning for the site from that in the 2016-2022 Development Plan. Previously the site was indicated as being on partially Flood Zones A & B lands (refer to Site 8: Vol 7 Appendix 3 of this Plan), and in the current Plan it is indicated as being located on partially Flood Zone A lands and in a defended area (Map H Vol 7 of current Plan). However, I consider in both plans the site has always been partially indicated as being subject to flooding.

9.7.3. The nearest water course to the subject site is the Brewery Stream/Elm Park Stream c.600m to the south of the site which flows in an easterly direction to Dublin Bay. There is no indication from the CFRAMs maps (accessed 8/1/2026) that this river experiences flooding that would impact the subject site. The River Dodder is located 1.6km west of the site and discharges into the Liffey Estuary. Flood

alleviation works are ongoing along the River Dodder and have been completed from Ringsend Bridge to just below Ballsbridge with an allowance for climate change built into the works.

- 9.7.4. The site is situated within 300m of the coastline. I accessed the floodmaps.ie CFRAM maps (accessed 8/1/2026) which confirms the site is at risk of coastal flooding from a 0.1% AEP coastal flood event. The CFRAMs maps indicate the flood levels for the nearest water level node (0937C0022) for the 0.1% AEP flood event to the site, is 2.61m OD. Tidal flood depths range from 0-0.25m at and surrounding the site. There is no pluvial/surface water or groundwater flooding directly at the site. However, I note there was a pluvial flood event recorded along the Merrion Road bounding the site in 2011 during an extreme rainfall event.
- 9.7.5. The subject site is located in an area of 'Moderate' groundwater vulnerability on Man Made ground with underlying clay. There is no evidence of a high ground water table. Some infilling is proposed to the low lying areas in the flood zone of the site, namely the use of the existing sunken tennis courts as an open space area. The infilling of the tennis court would equate to the 100m<sup>3</sup>. A stormwater attenuation tank (45m<sup>3</sup>) is proposed to ensure that stormwater discharge is designed to retain a 100 year rainfall event including a 20% allowance for climate change and stormwater is discharged to its greenfield equivalent.
- 9.7.6. I agree with the SFA that the limited reduction in 100m<sup>3</sup> would not have an impact on the surrounding developments, and this would only occur in the event of a 0.1% AEP flood event or failure of the River Dodder Flood Defence scheme. Potential flow paths through the site would be maintained ensuring that during a 0.1% AEP flood event that floodwaters would not be intercepted that could result in a build-up of flood waters on site or redirected to the neighbouring properties. The proposed development would have a FFL of 3.2mOD which would provide a freeboard of 0.59m over the estimated 0.1% AEP flood depth.
- 9.7.7. The Justification Test was carried out by the applicant based on the criteria of Box 5.1 of the Flood Risk Management Guidelines and notes the site is zoned for residential development, is located in an area protected by flood defences, finished floor levels would have regard to worst case scenario flood events and that the site would be accessible in the event of a flood event.

- 9.7.8. To minimise the risk of flooding to the basement car park, a flood barrier is proposed across the access ramp. This barrier would be an automatic system that is activated by the inflow of floodwaters and would not be manually activated. The flood barrier would be set with a 0.5m threshold above the external ground level and would protect the basement from low level fluvial, tidal and pluvial events.
- 9.7.9. I note third parties refer to the site being identified by Gamma Location Intelligence as a site at future risk from flooding, and as a consequence cannot get insurance. However, I have based my flood assessment on the CFRAM mapping evidence for the site.

### Conclusion

- 9.7.10. I am of the view that proposal would be satisfactory in the context of flood risk, and the applicant has met all obligations that would be required under the recommendations of the Flood Planning System and Flood Risk Management – Guidelines for Planning Authorities and the Dublin City Development Plan 2022-2028. Having regard to the information presented and available in relation to flood risk, I am generally satisfied that the proposed development can be accommodated on the subject site without increasing risk to neighbouring properties.

## **9.8. Other issues**

### Past Failures to comply

- 9.8.1. Third parties have made reference to the Merrion Village not being implemented according to the parent permission. I have dealt with this aspect in 9.2 of this report.

### Basement Impact Assessment

- 9.8.2. The proposed development includes a car park at basement level which would require this part of the site to be excavated by 4m below ground level. The basement would have a 2.4m minimum headroom and is proposed to be naturally ventilated. Appendix 9 of the current DP requires a Basement Impact Assessment (BIA) to accompany all planning applications that include a basement and provides general guidance on the information required in such an assessment in order to safeguard potential impacts on groundwater and surface water and flooding levels or land stability.

- 9.8.3. As part of the applicant's 131 submission a BIA was submitted which provides details of the proposed excavation works required to accommodate the basement, potential impacts from the excavation works at pre and post construction stages and potential control measures to protect nearby properties, groundwater, surface water and infrastructure. The BIA provides details of the demolition of the existing pavilion building and includes vibration monitoring of the demolition works and monitoring stations to be installed at agreed locations for continuous monitoring during construction works. The location of site investigation boreholes and trial `pits adopted for groundwater monitoring have been indicated. The credentials of the author of the report have been specified within the assessment.
- 9.8.4. The site lies within the Dublin Groundwater body code: IE-EA-G-008 and is classified under the WFD as having 'good status'. As stated previously there are no water courses at the site, with the nearest watercourse being the Brewery Stream c.600m to the south and the main watercourse being the River Dodder c.1.6km to the west of the site. The site is underlain by a 'Locally Important Aquifer' which is characterised by discrete rather than large, connected fractures and flow paths would generally be local.
- 9.8.5. It is proposed to construct the development using conventional foundations with the retaining wall to the basement being a cantilever Secant Piled wall positioned 4m from the existing sewer to the north west of the basement area. This wall would allow the site to be excavated without internal props. The wall would be designed by specialists to support earth pressures from both within and outside the site boundary. Water proofing would be provided under the basement floor and up against the secant piles.
- 9.8.6. Subject to detailed ground investigations it is considered 600mm diameter piles would be used to support the excavation required to suit the difference of 4-5m to the adjacent sites. The basement would be formed using in situ reinforced concrete (RC) slab and RC perimeter walls and RC transfer slab at ground floor level. Dewatering may be required during the installation of the piles. Vibrations would be limited to 5mm/s during the excavation and construction of the piled foundations.
- 9.8.7. Any inflow of water and rainwater collected in the excavation until the basement floor is in place would be collected and pumped to a settlement tank before being pumped

to a surface water or foul sewer to be agreed by DCC. Ground levels during and post construction would be monitored.

#### Location of substation

- 9.8.8. Third parties have referred to the existing ESB substation at the entrance onto Lennon Cottages would block vehicles using the access. However, the relocation of the substation would be required to ensure the vehicular access is satisfactory and I consider it is possible to relocate the substation elsewhere on the site. I note condition 15 of the P.A.'s decision to grant required the widening of the existing entrance and the relocation of the substation. I therefore recommend that the relocation of the substation is agreed with the P.A prior to the commencement of the development.

#### Conclusion

- 9.8.9. With the exception of the Merrion Inn there are no directly adjoining structures to the proposed site. However, I note that the BIA states that an independent dilapidation survey would be carried out of all adjacent structures to provide a baseline recording of any pre existing damages or effects, and monitoring stations would be installed at agreed locations with adjoining landowners for continuous monitoring. I consider this a reasonable approach.
- 9.8.10. I am satisfied the BIA meets the requirements in Appendix 9 of the DCDP and subject to the implementation of the proposed monitoring measures contained within the BIA and CEMP the construction of the basement would not impact on adjoining or neighbouring properties structural stability or have an adverse effect on groundwater or surface water flows that is likely to increase contamination or the risk of flooding.

## **10.0 EIA Screening**

- 10.1. The proposed development has been subject to preliminary examination for environmental impact assessment (refer to Form 1 and Form 2 in Appendix 1 of this report). Having regard to the characteristics and location of the proposed development and the types and characteristics of potential impacts, it is considered that there is no real likelihood of significant effects on the environment. The

proposed development, therefore, does not trigger a requirement for environmental impact assessment screening and an EIAR is not required.

## **11.0 AA Screening**

### **11.1. Stage 1- Appropriate Assessment Screening**

- 11.1.1. I am satisfied that the information on file which I have referred to in my assessment allows for a complete examination and identification of any potential significant effects of the development, alone, or in combination with other plans and projects on European sites. I have reviewed the Appropriate Assessment Stage 1 Screening Report which was submitted to the planning authority by OPENFIELD dated March 2021 and I have carried out a full Screening Determination for the proposed development and it is attached to this report in Appendix 2.
- 11.2. The subject site is located within an established urban area. The closest European Site, part of the Natura 2000 network, is the South Dublin Bay SAC & South Dublin Bay & River Tolka SPA located c. 300m to the east of the subject site. The River Dodder lies 1.6km north west and the Elm Park Stream flows approximately 600m to the south of the site, however no pathway exists to the site.
- 11.3. The proposed development comprises the demolition of an existing pavilion building and removal of a tennis court and the construction of 25 apartments and associated works. Surface water from the proposed development would be collected in a new slung surface water drainage network in the basement of the development which would connect to a new external surface water network within the site and fall by gravity to an attenuation system located in the private open space area to the west of the proposed development. The outfall from the attenuation system would be limited to a flow rate of 2l/s before connecting to a private drainage network. Foul effluent would connect to the Ringsend waste water treatment plant.
- 11.4. Having considered the nature, scale and location of the project, in accordance with section 177U of the Planning and Development Act 2000, as amended, and on the basis of objective information, I conclude that the proposed development would not have a likely significant effect on any European site either alone or in combination with other plans or projects. It is therefore determined that Appropriate Assessment (Stage 2) under section 177V of the 2000 Act is not required.

11.5. The reason for this conclusion is based on the following:

- The urban infill nature of the works.
- The location of the site within a built-up residential area removed from any waterbodies and lack of any hydrological connectivity to any European site.
- Objective information presented in the Appropriate Assessment Screening Report.
- No potential for ex situ impacts.
- Standard Best Practice measures that would be employed regardless of proximity to a European site and the effectiveness of same.
- Qualifying interests, special conservation interests, and conservation objectives of the European sites.
- The discharge of surface water to the public surface water system after appropriate SuDS treatment.
- The disposal of foul water to the public foul sewer system for treatment.

11.6. I conclude, on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects.

11.7. Likely significant effects are excluded and therefore Appropriate Assessment (under Section 177V of the Planning and Development Act 2000) is not required.

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

## **12.0 Water Framework Directive (WFD) Conclusion**

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

12.2. Refer to Appendix 3 of this report.

## 13.0 Recommendation

I recommend that permission be **granted** for the reasons and considerations below.

## 14.0 Reasons and Considerations

Having regard to the provisions of the Dublin City Development Plan 2020-2028, and the location of the proposed development on zoned and serviced residential lands, it is considered that, subject to compliance with the conditions set out below, the proposed development would make efficient use of an underutilised residential site and positively contribute to compact growth in an established urban neighbourhood, would positively contribute to an increase in housing stock in this location, a short distance from a range of social, commercial, retail, and public transport infrastructure, would be acceptable in terms of urban design and building height, would be acceptable in terms of pedestrian, traffic safety and flooding, and would provide an acceptable form of residential amenity for future occupants. The proposed development would not seriously injure residential or visual amenities or significantly increase traffic volumes in the area or adversely impact on the natural heritage including biodiversity of the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

### 14.1. Planning Authority Conditions

The P.A attached 21 conditions to their decision to grant planning permission some of which are bespoke to the development. In the interest of clarity, the following table sets out where the P.A conditions are contained within the standard conditions of the Commission.

| <b>P.A Condition No.</b> | <b>Condition specification (summarised)</b>        | <b>ACP condition</b> |
|--------------------------|--|----------------------|
| 1.                       | Plans & particulars                                | Condition 1          |
| 2.                       | Section 48 Development Contribution of €148,188.90 | Condition 25         |

|     |  |   |
|-----|--|---|
| 3.  | Section 48 development contribution in lieu of public open space €100,000  | Condition 26- sum to be agreed with P.A |
| 4.  | Irish Water conditions (parts 1-11)  | Condition 14                            |
| 5.  | Hours of construction  | Condition 21                            |
| 6.  | Restriction on noise levels in accordance with B.S 4142  | Condition 20 – forms part of CEMP       |
| 7.  | Adjoining streets are to be kept clear of construction debris  | Condition 20 - CEMP                     |
| 8.  | Prior to commencement detail of materials to be agreed   | Condition 2                             |
| 9.  | Prior to commencement landscape plan to be submitted for agreement with P.A  | Condition 16                            |
| 10. | Prior to commencement defensible planting scheme for ground floor unit terraces to be agreed with P.A  | Condition 16                            |
| 11. | Car parking for occupiers only.  | Included in Condition 10                |
| 12. | Prior to commencement areas to be TIC to be agreed of P.A  | Condition 22                            |
| 13. | Prior to commencement a Project Construction & Demolition plan to be agreed with :P.A  | Condition 20 CEMP                       |
| 14. | Compliance with Drainage Division requirements (i-xii) to be complied with, including Greater Dublin Regional CoP, Drainage, separate foul & sewer, SuDs, flood mitigation measures, basement drainage, discharge of groundwater not permitted to drainage network, & petrol interceptor.      | Conditions 13 & 20                      |
| 15. | Compliance with Transportation Division requirements (i-v), including, Demolition & Construction Management Plan, widening of existing vehicular access, relocation of pedestrian gate, removal of car parking & sub station, 6 additional cycle visitor spaces, prior to commencement revised | Conditions 9,10 &11                     |

|     |  |              |
|-----|--|--------------|
|     | site layout to include the removal of 2 car parking spaces at Lennon's Cottages, agreement regarding removal of pay & display permit bay, car parking spaces not to be sold or leased. |              |
| 16. | Prior to commencement Construction & demolition Waste Management Plan approved by P.A (i-ix) .   | Condition 9  |
| 17. | Compliance with Dublin City waste management storage requirements (a-d), including receptable storage  | Condition 18 |
| 18. | Prior to commencement details of public open space requirements and in lieu financial contribution   | Condition 24 |
| 19. | Naming & numbering of the development  | Condition 6  |
| 20. | Part V   | Condition 21 |
| 21. | Insurance Bond   | Condition 22 |

## 15.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further particulars received by the Commission on 11<sup>th</sup> November 2024, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority, prior to commencement of the development and the development shall agree such details in writing with the planning authority , the developer shall agree such details in writing with the planning authority prior to commencement of the development being carried out and the development shall be carried out and completed in accordance with the agreed particulars.  
**Reason:** In the interests of clarity.
2. Details of the materials, colours and textures of all the external finishes to the proposed building shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of visual amenity.

3. (a) The glazing to all bathroom and en-suite windows shall be manufactured opaque or frosted glass and permanently maintained. The application of film to the surface of clear glass is not acceptable.

(b) The glazing to the east facing windows shall be manufactured opaque or frosted glass and permanently maintained. This window shall be fixed and non-openable.

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

4. The gym and studio shall be used for the future occupiers of the apartment building only.

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

5. The development shall not be gated.

**Reason:** To promote pedestrian permeability through the site.

6. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.

**Reason:** To protect the residential amenities of property in the vicinity and the visual amenities of the area.

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

**Reason:** In the interest of urban legibility.

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

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

9. (a) Details of the uncontrolled pedestrian gate at the access to Merrion Road shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

(b) Prior to commencement the internal road network serving the proposed development, including junctions, turning bays, STOP sign, parking areas, footpaths and kerbs, and access road to the underground car park shall be in accordance with the requirements of the Design Manual for Urban Roads and Streets (DMURS) and shall be agreed with the planning authority for such works.

(c) The relocation of the substation shall be agreed in writing with the Planning Authority prior to commencement of the development.

**Reason:** In the interest of amenity and of traffic and pedestrian safety.

10. (a) The maximum number of car parking spaces serving the proposed residential development shall be 25 in number, inclusive of the reconfigured 3 car parking spaces that form part of Lennon's Cottages. The location and layout of these spaces shall be agreed in writing with the planning authority prior to the commencement of development.

(b) Residential car and motorcycle parking spaces shall be permanently allocated to residential use and shall not be sold, rented, or otherwise sub-let or leased to other parties.

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

(d) Key/fob access shall be required to resident bicycle compound. All cycle parking design including visitor parking shall allow both wheel and frame to be locked. Electric bike charging facilities within the resident cycle parking areas shall be provided. All cycle parking shall be in situ prior to the occupation of the development.

**Reason:** In the interest of sustainable transportation.

11. Prior to the commencement of any works associated with the development hereby permitted, the developer shall submit a Traffic Management Plan (TMP) for the construction phase of the development for the written agreement of the planning authority. The TMP shall incorporate details of the road network to be used by construction traffic including oversized loads, detailed proposals for the protection of bridges, culverts and other structures to be traversed, as may be required. The agreed TMP shall be implemented in full during the course of construction of the development.

**Reason:** In the interest of sustainable transport and safety.

12. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any dwelling.

**Reason:** In the interests of amenity and public safety.

13. The attenuation and disposal of surface water shall comply with the requirements of the planning authority for such works and services. Prior to the commencement of development, the developer shall submit details for the attenuation and disposal of surface water from the site for the written agreement of the planning authority.

**Reason:** To prevent flooding and in the interests of sustainable urban drainage.

14. Prior to commencement of development, the developer shall enter into water and/or wastewater connection agreement(s) with Uisce Éireann.

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

15. (a) Detailed measures in relation to the protection of trees on and adjoining the site, including an Arboricultural Method Statement, shall be submitted to, and agreed in writing with the planning authority prior to commencement of development.
- (b) All demolition and construction works shall be carried out under the supervision of a qualified arborist.

**Reason:** To ensure the protection of the natural heritage on site.

16. A comprehensive boundary treatment and landscaping scheme shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. This scheme shall include the following:
- (a) details of all proposed hard surface finishes, including samples of proposed paving slabs/materials for footpaths, kerbing and road surfaces within the development;
- (b) proposed locations of trees and other landscape planting in the development, including details of proposed species and settings;
- (c) details of proposed play equipment and street furniture including bollards, lighting fixtures and seating;
- (d) details of proposed boundary treatments at the perimeter of the site, including heights, materials and finishes.

The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme.

**Reason:** In the interest of visual amenity.

17. (a) The open spaces, including hard and soft landscaping, car parking areas and access ways, communal refuse/bin storage, and all areas not intended to be taken in charge by the local authority, shall be maintained by a legally constituted management company.
- (b) Details of the management company contract, and drawings/particulars describing the parts of the development for which the company would have

responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the residential units are made available for occupation.

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

18. (a) A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities shall be submitted to, and agreed in writing with, the planning authority not later than 6 months from the date of commencement of the development. Thereafter, the waste shall be managed in accordance with the agreed plan.
- (b) This plan shall provide for screened communal bin stores, the locations, and designs of which shall be included in the details to be submitted.

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

19. Prior to the commencement of development, the developer or any agent acting on its behalf, shall prepare a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) including demonstration of proposals to adhere to best practice and protocols. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness; these details shall be placed on the file and retained as part of the public record. The RWMP must be submitted to the planning authority for written agreement prior to the commencement of development. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

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

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

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

- (a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
- (b) Location of areas for construction site offices and staff facilities;
- (c) Details of site security fencing and hoardings;
- (d) Details of on-site car parking facilities for site workers during the course of construction;
- (e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;
- (f) Measures to obviate queuing of construction traffic on the adjoining road network;
- (g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- (h) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;
- (i) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- (j) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
- (k) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- (l) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains in accordance with the requirements of CIRIA C532, *Control of water pollution from construction sites*.

(m) A record of daily checks that the works are being undertaken in accordance with the CEMP shall be kept for inspection by the planning authority.

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

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

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

22. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of public open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

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

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

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

**Reason:** To ensure the satisfactory completion of the development.

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

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

26. The developer shall pay the planning authority a development contribution in lieu of the public open space requirement in respect of public open space

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

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

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

---

Catherine Dillon  
Planning Inspector

6<sup>th</sup> May 2026

## 16.0 Appendix 1 EIA Preliminary Examination

### Forms 1- EIA Pre-Screening

|   |  |
|---|--|
| <b>Case Reference</b>   | ABP 321075-24  |
| <b>Proposed Development Summary</b>   | Demolition of pavilion building and construction of 25 apartments and associated works |
| <b>Development Address</b>  | 204-205 Merrion Road, Dublin 8.  |
| <b>In all cases check box /or leave blank</b>   |  |
| <b>1. Does the proposed development come within the definition of a ‘project’ for the purposes of EIA?</b><br><br>(For the purposes of the Directive, “Project” means:<br>- The execution of construction works or of other installations or schemes,<br><br>- Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources) | <input checked="" type="checkbox"/> Yes, it is a ‘Project’. Proceed to Q2.             |
|   | <input type="checkbox"/> No, No further action required.                               |
| <b>2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?</b>   |  |
| <input type="checkbox"/> Yes, it is a Class specified in Part 1.  | State the Class here   |
| <input checked="" type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3  |  |
| <b>3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?</b>   |  |
| <input type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road  |  |

|  |  |
|--|--|
| <p>development under Article 8 of the Roads Regulations, 1994.</p> <p><b>No Screening required.</b></p>  |  |
| <p><input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold.</p>   |  |
| <p><input checked="" type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold.</p> <p><b>Preliminary examination required. (Form 2)</b></p> <p><b>OR</b></p> <p><b>If Schedule 7A information submitted proceed to Q4. (Form 3 Required)</b></p> | <p>Class 10(b)(i) Construction of 500 dwellings or more</p> <p>Class 10(b)(iv) 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.)</p> |
| <p><b>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)?</b></p>   |  |
| <p>Yes <input type="checkbox"/></p>  | <p><b>Screening Determination required (Complete Form 3)</b></p>   |
| <p>No <input checked="" type="checkbox"/></p>  | <p><b>Pre-screening determination conclusion remains as above (Q1 to Q3)</b></p>   |

Inspector: \_\_\_\_\_ Date: \_\_\_\_\_

## Form 2 - EIA Preliminary Examination

|   |  |
|---|--|
| <b>Case Reference</b>   | 321075-24  |
| <b>Proposed Development Summary</b>   | Demolition of pavilion building and tennis court and construction of 25 apartments including a gym with associated works.  |
| <b>Development Address</b>  | 204-205 Merrion Road, Dublin 4.  |
| <b>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</b>   |  |
| <b>Characteristics of proposed development</b><br>(In particular, the size, design, cumulation with existing/ proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).  | The proposed development would involve the removal of a disused tennis court and demolition of an existing pavilion building on the south eastern side of the site and construction of a 4/5 storey building to provide 25 apartments and associated works. It would include an underground car park containing 25 car parking spaces and 56 bicycle spaces. The vehicular access into the site would be off Merrion Road. The development would have a gfa of 1935m <sup>2</sup> .  |
| <b>Location of development</b><br>(The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance). | <p>The site is located within a suburban area of Dublin city, to the north of Merrion Road, a mixed residential and commercial road and arterial transport corridor. The development site does not provide a suitable habitat for wintering wetland or wading birds. There is currently no attenuation of surface water on the site. The proposed development would increase the area of hardstanding which may affect the pattern of run off. SuDs measures include the quality and quantity of run at a 'greenfield' rate.</p> <p>The River Dodder lies approx. 1.6km to the north west of the site and the Brewery Stream/Elm Park Stream flows approx. 600m to the south of the site. The site is not hydrologically connected to these watercourses. South Dublin Bay &amp; River Tolka Estuary SPA (site code: 004024) &amp; South Dublin Bay SAC (site code 000210) are approx. 300m to the eastern boundary of the site. It is not considered that the proposed development would be likely to have a significant impact on the European site.</p> <p><i>Flooding:</i></p> <p>The site is located on partially zoned Flood Zone A and as a defended area in the Dublin City CDP SSFRA.</p> |

|  |   |
|--|---|
|  | <p><i>Archaeology:</i></p> <p>According to the NMS web site there are no archaeological monuments recorded within the site.</p> <p><i>Historic &amp; cultural:</i></p> <p>The site is a brownfield site and there are no protected structures in close proximity to the site and the site does not lie within an ACA.</p> <p><i>Landscape:</i></p> <p>The site is not visible from the road and has a low sensitivity rating. No protected views/scenic routes in vicinity of the site.</p> <p>Construction Management Plan submitted with proposal.</p>                                |
| <p><b>Types and characteristics of potential impacts</b><br/>(Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).</p> | <p>There are no ecologically sensitive locations in the immediate vicinity of the appeal site. The appeal site is an infill urban site on brownfield land. Having regard to the scale of the proposal, intervening land uses and separation distance, the proposed SuDS measures and CEMP, there is no potential to significantly impact on the ecological sensitivities of these European sites or other significant environmental sensitivities in the area.</p> <p>There is no potential for significant effects on the environmental factors listed in section 171A of the Act.</p> |
| <b>Conclusion</b>  |   |
| <b>Likelihood of Significant Effects</b>   | <b>Conclusion in respect of EIA</b>   |
| There is no real likelihood of significant effects on the environment.   | EIA is not required.  |

**Inspector:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**DP/ADP:** \_\_\_\_\_ **Date:** \_\_\_\_\_

(only where Schedule 7A information or EIAR required)

**16.1. Appendix 2 Appropriate Assessment Screening Determination**

| <b>Screening for Appropriate Assessment<br/>Screening Determination<br/>Step 1</b>           |   |
|--|---|
| <b>Brief Description of Project</b>  | Construction of 25 apartments with basement parking and associated works on 0.25 hectares.<br>Third party appeal<br>Foul water and surface water is proposed to drain to the public main. There are no watercourses or other ecological features of note on the site that would connect it directly to European Sites in the wider area.  |
| <b>Brief description of development site characteristics and potential impact mechanisms</b> | A detailed description is presented in Section 2 of this report.<br>Brownfield site in established Dublin areas and is not located within any designated European site.<br>Uisce Eireann has 2 sewers which traverse the site.<br>Surface is 'Man Made' comprising concrete/artificial surface. Teagasc soil maps indicate the bedrock is dark limestone & shale (LU).<br>Site is zoned on partially Flood Zone A lands and defended. There are no watercourses or ditches on the site.<br>The site is not connected to any identifiable watercourses. The nearest watercourse is the Brewery Stream _010/Elm Park Stream c.600m to the south of the site which flows in an easterly direction into Dublin Bay. The River Dodder lies c.1.6km to the north west of the site and flows from south to north into the Liffey, 3km from the site. |
| <b>Screening report</b>  | Yes (Prepared by OPENFIELD Ecological Services)   |
| <b>Natura Impact Statement</b>   | No  |
| <b>Relevant Submissions</b>  | Issue of AA was not raised in third party submissions or in submissions from prescribed bodies.   |

I refer the Commission to section 5.0 of the AA screening report accompanying the application. This section of the AA screening report included the following 15 Natura 2000 sites within a possible Zone of Influence (Zoi), 15km of the subject site:

- South Dublin Bay & River Tolka Estuary SPA (site code: 004024)
- South Dublin Bay Special Area of Conservation (SAC) (site code: 000210) .
- North Dublin Bay Special Area of Conservation (SAC) (site code: 000206)
- North Bull Island Special Protection Area (SPA) (site code: 004006)
- Poulaphouca Reservoir SPA (004063)
- Baldoyle Bay SAC (000199) & SPA (004016),
- North Bull Island SPA (004006),
- Howth Head SAC ( 000202) & Howth Head Coast SPA ( 004113),
- Rockabill to Dalkay Islands SPA (004172),
- Ireland’s Eye SAC (002193),
- Glenasmole Valley SAC (001209)
- Knocksink Wood SAC (000725),
- Ballyman Glen SAC (000713) ,
- Wicklow Mountains SAC ( 002122) & SPA (004040),
- Malahide Estuary SAC (00205) & SPA (004025)

**Step 2. Identification of relevant European sites using the source-pathway-receptor model**

Five European sites are potentially within a zone of influence of the proposed development. I note that the screening report considered a further 10 sites in a wider area (within 15km) as listed above, but rules these out for further examination due to distance and lack of/ weak ecological connections. I am satisfied that these sites can be excluded from further consideration.

| European Site (site code)   | Qualifying interests <sup>1</sup><br>Link to conservation objectives (NPWS, date)  | Distance from proposed development (KM) | Ecological Connections <sup>2</sup>  | Consider further in screening <sup>3</sup> Y/N |
|---|--|---|--|--|
| South Dublin Bay & River Tolka Estuary SPA (004024)<br><br>Conservation Objective : To maintain or restore the favourable conservation condition of Annexe I habitats and /or Annexe II species of the SPA. | Light-bellied Brent Goose [A046]<br>Oystercatcher [A130]<br>Ringed Plover [A137]<br>Grey Plover [A141]<br>Knot [A143]<br>Sanderling [A144]<br>Dunlin [A149]<br>Bar-tailed Godwit [A157]<br>Redshank [A162]<br>Black-headed Gull [A179]<br>Roseate Tern [A192]<br>Common Tern [A193]<br>Arctic Tern [A194]<br>Wetland & Waterbirds [A999]<br><a href="#">South Dublin Bay and River Tolka Estuary SPA   National Parks &amp; Wildlife Service</a> | Within 300m to the east.                | Indirect via Brewery Stream/Elm Park Stream, & River Dodder, surface water discharge & dust emission.<br><br>Wastewater treated at Ringsend WWTP which discharges into Dublin Bay. | Yes  |

|   |  |                              |                 |            |
|---|--|------------------------------|-----------------|------------|
| <p>South Dublin Bay SAC (000210)</p> <p>Conservation Objective : To maintain or restore the favourable conservation condition of Annex I habitats and /or Annex II species of the SAC</p> | <p>Mudflats and sandflats [1140]<br/>Annual vegetation of drift lines [1210]<br/>Salicornia and other annuals [1310]<br/>Embryonic shifting dunes [2110]<br/><a href="#">South Dublin Bay SAC   National Parks &amp; Wildlife Service</a></p>  | <p>300m to the east</p>      | <p>As above</p> | <p>Yes</p> |
| <p>North Dublin Bay SAC (000206)</p>  | <p>Mudflats and sandflats not covered by seawater at low tide [1140]<br/>Annual vegetation of drift lines [1210]<br/>Salicornia and other annuals colonising mud and sand [1310]<br/>Atlantic salt meadows [1330]<br/>Mediterranean salt meadows [1410]<br/>Embryonic shifting dunes [2110]<br/>Shifting dunes along the shoreline with (white dunes) [2120]<br/>Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]<br/>Humid dune slacks [2190]<br/>Petalwort [1395]<br/><a href="#">North Dublin Bay SAC   National Parks &amp; Wildlife Service</a></p> | <p>c.4.8km to north east</p> | <p>As above</p> | <p>Yes</p> |
| <p>North Bull Island SPA (004006)</p>   | <p>Light-bellied Brent Goose [A046]<br/>Shelduck [A048]<br/>Teal [A052]<br/>Pintail [A054]<br/>Oystercatcher [A130]<br/>Golden Plover [A140]<br/>Grey Plover [A141]<br/>Knot [A143]<br/>Sanderling [A144]<br/>Dunlin [A149]<br/>Black-tailed Godwit [A156]<br/>Bar-tailed Godwit [A157]<br/>Curlew [A160]<br/>Redshank [A162]</p>  | <p>c.4.8km to north east</p> | <p>As above</p> | <p>Yes</p> |

|                                    |   |                          |                      |     |
|------------------------------------|---|--------------------------|----------------------|-----|
|                                    | Turnstone [A169]<br>Black-headed Gull [A179]<br>Shoveler [A857]<br>Wetland & Waterbirds [A999]<br><a href="#">North Bull Island SPA   National Parks &amp; Wildlife Service</a> |                          |                      |     |
| Poulaphouca Reservoir SPA (004063) | Greylag Goose [A043]<br>Lesser Black-backed Gull [A183]<br><a href="https://www.npws.ie/protected-sites/spa/004063">https://www.npws.ie/protected-sites/spa/004063</a>          | c.24km to the south west | Abstraction of water | Yes |

<sup>1</sup>Summary description / cross reference to NPWS website is acceptable at this stage in the report

<sup>2</sup>Based on source-pathway-receptor: Direct/ indirect/ tentative/ none, via surface water/ ground water/ air/ use of habitats by mobile species

<sup>3</sup> if no connections: N

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

#### AA Screening Matrix

| Site name  | Possibility of significant effects (alone) in view of the conservation objectives of the site?   |   |
|--|--|---|
|  | Impacts  | Effects   |
| <b>Site:</b><br><b>South Dublin Bay &amp; River Tolka Estuary SPA (004024)</b> | Direct: None<br><br>No direct impacts and no risk of habitat loss, fragmentation or other direct impact.<br><br>Loss of artificial habitat of low ecological significance-urbanised land.<br><br>Indirect:<br><br>Low risk of surface water runoff from construction reaching sensitive receptors that could potentially enter Brewery Stream or River Dodder. Intervening habitat provides buffer and 300m & 1.6km respectively of water course and estuarine | Ecological information shows the current land use is not suitable for regular use by SCI wintering waterbirds of the SPA.<br><br>No direct or ex-situ effects on wintering water birds (or breeding Tern) from disturbance during construction or operation of the proposed development.<br><br>Conservation objectives related to ensuring adequate supporting habitat outside of the SPA will not be undermined.<br><br>Low risk of surface water borne pollutants reaching the wetland habitats of the SPA. No significant changes in ecological |

|  |  |  |
|--|--|--|
|  | <p>influence would dilute minor emissions.</p> <p>Foul water would be treated via Ringsend WWTP before entering Dublin Bay.</p> <p>Operational: Surface water would be attenuated by integrated SUDS system and hydrocarbon filtration system.</p> | <p>functions due to any minor construction related emissions are predicted for the estuarine environment.</p> <p>No significant disturbance to any SCI wintering birds (ex-situ).</p> <p>Conservation objectives would not be undermined</p>   |
|  | Likelihood of significant effects from proposed development (alone): <b>No</b>   |  |
|  | If, no, is there likelihood of significant effects occurring in combination with other plans or projects? <b>No</b>  |  |
|  | <b>Impacts</b>   | <b>Effects</b>   |
| <p><b>Site:</b><br/><b>South Dublin Bay SAC (000210)</b></p> | <p>Direct: None</p> <p>Indirect impacts:</p> <p>As above for surface water &amp; foul water.</p>   | <p>Low risk of surface water borne pollutants reaching the SAC.</p> <p>The qualifying interests of the SAC estuarine / intertidal habitats are considered to have relatively low sensitivity to suspended sediments or other pollutants, and their conservation objectives would not be compromised and there would be no significant changes in ecological functions due to any minor construction related emissions.</p> <p>The discharge from Ringsend WWTP does not extend to the south of Dublin Bay.</p> |
|  | Likelihood of significant effects from proposed development (alone): <b>No</b>   |  |

|   |   |  |
|---|---|--|
|   | If, no, is there likelihood of significant effects occurring in combination with other plans or projects? <b>No</b> |  |
|   | <b>Impacts</b>  | <b>Effects</b>   |
| <b>Site:<br/>North Dublin Bay SAC<br/>(000206)</b>  | Direct: None<br><br>Indirect: As above for surface & foul water.  | Low risk of surface water borne pollutants reaching the SAC.<br><br>No ecological evidence that negative effects are occurring from Ringsend WWTP on site from water quality.<br><br>UE completed construction of the first phase to upgrade Ringsend WWTP in 2023 and works were to be completed by 2025 for 2.4million P.E.. |
|   | Likelihood of significant effects from proposed development (alone): <b>No</b>                                      |  |
|   | If, no, is there likelihood of significant effects occurring in combination with other plans or projects? <b>No</b> |  |
|   | <b>Impacts</b>  | <b>Effects</b>   |
| <b>Site:<br/>North Bull Island SPA<br/>(004006)</b> | Direct: None<br><br>Indirect: As above for surface & foul water.  | Ecological information shows the current land use is not suitable for regular use by SCI wintering waterbirds of the SPA.<br><br>Low risk of surface water borne pollutants reaching the wetland habitats of the SPA.  |
|   | Likelihood of significant effects from proposed development (alone): <b>No</b>                                      |  |
|   | If, no, is there likelihood of significant effects occurring in combination with other plans or projects? <b>No</b> |  |
|   | <b>Impacts</b>  | <b>Effects</b>   |
| <b>Site:</b>  | Direct: None  | None- Recent published data indicates abstraction  |

|   |   |   |
|---|---|---|
| <b>Poulaphouca Reservoir SPA (004063)</b> | Indirect:<br>Abstraction levels on QIs.   | is not affecting conservation objectives for Greylag Geese or Blackheaded Gulls at this site. |
|   | Likelihood of significant effects from proposed development (alone): <b>No</b>                                      |   |
|   | If, no, is there likelihood of significant effects occurring in combination with other plans or projects? <b>No</b> |   |

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

I conclude that the proposed development (alone) would not result in likely significant effects on a European Site.

The appeal site is not immediately adjacent to, or within, a European site, therefore there is no risk of habitat loss or fragmentation or any effects on QI species directly or *ex-situ*. No mitigation measures are required to come to these conclusions.

The distance between the proposed development and any European sites, and the weak and indirect stormwater pathway is such that the proposal will not result in any likely changes to the European sites that comprise part of the Natura 200 network.

Other extant development is similarly served by urban drainage systems and the WWTP. The subject site is zoned Z1 in the Development Plan. No likely significant effects on the water quality of any European sites were identified. No likely significant in-combination effects are identified.

**Screening Determination**

I am satisfied that no risks to the conservation objectives of any Natura 2000 sites are considered likely due to the following:

- The urban infill nature and modest scale of the works.
- The location of the site within a built-up residential area removed from any waterbodies and lack of any hydrological connectivity to any European site.
- Objective information presented in the Appropriate Assessment Screening Report.
- No potential for ex situ impacts.
- Standard Best Practice measures that would be employed regardless of proximity to a European site and the effectiveness of same.
- Qualifying interests, special conservation interests, and conservation objectives of the European sites.

- The discharge of surface water to the public surface water system after appropriate SuDS treatment.
- The disposal of foul water to the public foul sewer system for treatment.

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

## 16.2 Appendix 3: WFD Screening

| <b>WFD IMPACT ASSESSMENT STAGE 1: SCREENING</b>             |                      |   |                                |
|---|----------------------|---|--------------------------------|
| <b>Step 1: Nature of the Project, the Site and Locality</b> |                      |   |                                |
| <b>An Bord Pleanála Ref. no.</b>                            | <b>ABP 321075-24</b> | <b>Townland, address</b>  | 204-205 Merrion Road, Dublin 4 |
| <b>Description of project</b>                               |                      | Demolition of pavilion building and tennis court and construction of a 4/5 storey development comprising 25 apartments and basement parking and associated works.   |                                |
| <b>Brief site description, relevant to WFD Screening,</b>   |                      | <p>The site is brown field in nature (0.25 ha) and occupied by a disused tennis court and pavilion building within Dublin city suburbs. The site is not connected to any identifiable watercourses.</p> <p>The nearest watercourse is the Brewery Stream _010/Elm Park Stream c.600m to the south of the site which flows in an easterly direction into Dublin Bay. The River Dodder lies c.1.6km to the north west of the site and flows from south to north into the Liffey, 3km from the site.</p> <p>Two large Uisce Eireann combined sewers traverse the site.</p> <p>Subsoil is 'Man Made' comprising of concrete or artificial surface. Teasagsc soil maps indicate the bedrock is dark limestone &amp; shale (LU).</p> <p>Site is zoned on partially Flood Zone A lands and defended.</p> |                                |
| <b>Proposed surface water details</b>                       |                      | Surface water run off from the proposed development would connect into an existing 150mm diameter surface water pipe adjacent to and serving Lennon Cottages. The rate would be limited to 2l/s by a hydro brake system. SuDs measures include permeable paving, permeable reinforced grass , landscaping and sedum/green roofs to slow the rate of surface water runoff . Surface water from the   |                                |

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|---|---|
|   | <p>roof areas would be collected by slung drainage pipe runs located underneath the building which would connect to the proposed external surface water drainage network. All surface water run off would be drained through an attenuation tank located underneath the private open space area with the system providing 45m<sup>3</sup> of storage volume. The surface water in the basement car park area would be drained via a separate surface water network which would pass through an interceptor before being pumped to surface level and discharged to the foul water network .</p> <p>The surface water drainage has been designed in accordance with the Greater Dublin Strategic Drainage Systems (GSDSDS). The P.A had no objections to the proposed drainage network as proposed. The Surface water drainage network has been designed so that no out of manhole flooding occurs at the 1 in 30 year event and that no internal property flooding occurs on the site.</p> |
| <p><b>Proposed water supply source &amp; available capacity</b></p> | <p>Public mains</p> <p>UE CoF letter dated 22/10/20, states they have no objections to this connection, subject to UE's standard details and codes of practice being adhered to.</p> <p>UE's water capacity register (accessed 11/12/25) indicates the Dublin City &amp; Suburbs has potential capacity available to meet 2034 population targets and a level of Service (LoS) improvement is required. Capacity constraints exist and additional analysis of Pre-connection Enquiries and Connection Applications will be undertaken as required by UE on an individual basis considering their specific load requirements. Improvement proposals will include but are not limited to leakage reduction and/or capital investment. These proposals will be required to maintain/improve levels of service as demand increases. These proposals will be developed &amp; prioritised through the National Water Resources Plan and investment planning process.</p>                        |

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| <b>Proposed wastewater treatment system &amp; available capacity, other issues</b> | <p>Wastewater would connect to Ringsend WWTP which is licensed to discharge treated effluent by the EPA (licence no. D0034-01). UE WWTP capacity at Ringsend states it has capacity and that there is a WWTP project planned/underway to increase capacity and/ or improve treatment performance (accessed 11/12/25).</p> <p>According to the latest AEP report (2023) for the plant, the discharge from the WWTP does not have an observable negative impact on the water quality in the near field of the discharge into the Dublin Bay or the Lower Liffey Estuary and both have ‘good’ status.</p> |
| <b>Others?</b>   | <p>Uisce Eireann (letter dated 14/4/2021) reviewed an enquiry in relation to the development and its close proximity to an existing 1350mm &amp; 900mm UE combined sewers crossing the site and based on the details had no objection to the development, subject to conditions and the development being carried out in accordance with UE’s standards, codes and practices.</p>  |

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

| <b>Identified water body</b> | <b>Distance to (m)</b>  | <b>Water body name(s) (code)</b>              | <b>WFD Status</b> | <b>Risk of not achieving WFD Objective e.g.at risk, review, not at risk</b> | <b>Identified pressures on that water body</b> | <b>Pathway linkage to water feature (e.g. surface run-off, drainage, groundwater)</b>     |
|------------------------------|-------------------------|---|-------------------|---|--|---|
| <b>River Waterbody</b>       | c.600m to south of site | Brewery Stream<br>_010<br><br>IE_EA_09B130400 | Poor              | Review  | Not specified                                  | Not hydrologically connected to surface watercourse, indirectly via surface water run off |

|  | c.1.4km west of site   | River Dodder_050<br>IE_EA_09D010900 | Moderate                   | At Risk   | UWW, UR,<br>unknown                 | Not hydrologically connected to surface watercourse, indirectly via surface water run off |  |
|--|--|-------------------------------------|----------------------------|---|-------------------------------------|---|--|
| <b>Ground waterbody</b>  | Underlying site/ground water vulnerability classified as low | Dublin GWB<br>IE_EA_G_008           | Good                       | Review  | Not specified                       | Surface water drainage to ground  |  |
| <b>Transitional</b>  | c.3km north of site  | Liffey Estuary<br>IE_EA_090_300     | Moderate                   | At risk   | UWW                                 | Not hydrologically connected to surface watercourse, indirectly via surface water run off |  |
| <b>Coastal</b>   | c.300m to east of site                                       | Dublin Bay<br>IE_EA_090_0000        | Good                       | Not at risk                                       | Not specified                       | Discharge via Ringsend WWTP   |  |
| <b>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</b> |  |                                     |                            |   |                                     |   |  |
| <b>CONSTRUCTION PHASE</b>  |  |                                     |                            |   |                                     |   |  |
| No.  | Component  | Water body receptor (EPA code)      | Pathway (existing and new) | Potential for impact/ what is the possible impact | Screening Stage Mitigation Measure* | Residual Risk (yes/no) Detail   | Determination** to proceed to Stage 2. Is there a risk to the water environment? (if 'screened' in or 'uncertain') |

|    |              |                        |   |  |   |    | proceed to Stage 2. |
|----|--------------|------------------------|---|--|---|----|---------------------|
| 1. | Surface      | Brewery Stream_010     | Yes- indirect via surface water runoff  | Hydrocarbon spillages/ Siltation.  | Best Practice construction measures and mitigation in CEMP. | No | Screened out.       |
| 2. | Surface      | River Dodder_050       | Yes- indirect via surface water runoff. | Hydrocarbon spillages/ Siltation.  | Best Practice construction measures and mitigation in CEMP. | No | Screened out.       |
| 3. | Ground       | Dublin GWB IE_EA_G_008 | Underlying the site.                    | Excavation works for basement could increase aquifer vulnerability& water quality. | Best Practice construction measures and mitigation in CEMP. | No | Screened out        |
| 4. | Transitional | IE_EA_090_300          | Drainage/indirect                       | Hydrocarbon spillages/ Siltation.  | Best Practice construction measures and mitigation in CEMP. | No | Screened out        |

| OPERATIONAL PHASE |                    |                                |                            |   |   |                               |   |
|-------------------|--------------------|--------------------------------|----------------------------|---|---|-------------------------------|---|
| No.               | Component          | Water body receptor (EPA code) | Pathway (existing and new) | Potential for impact/ what is the possible impact | Screening Stage Mitigation Measure*   | Residual Risk (yes/no) Detail | Determination** to proceed to Stage 2. Is there a risk to the water environment? (if 'screened' in or 'uncertain' proceed to Stage 2. |
| 1                 | Surface/stormwater | _010 & _050                    | None                       | Pollution   | Incorporation of SuDS & nature based solutions to treat and attenuate water before discharging off site.<br><br>Discharge would be maintained at greenfield / baseline rates, and the | No                            | Screened out  |

|   |        |                           |                        |           |   |    |              |
|---|--------|---------------------------|------------------------|-----------|---|----|--------------|
|   |        |                           |                        |           | proposed development would not increase the risk of flooding elsewhere in the catchment.  |    |              |
| 2 | Ground | Dublin GWB<br>IE_EA_G_008 | Yes via spillage/leaks | Pollution | Incorporation of SuDS measures. Surface water run off to be collected in a new slung surface water drainage network in basement which would connect to new external sw network and fall by gravity to an attenuation system. Flow rate limited ot 2l/s before | No | Screened out |

|                              |              |                |                                      |                         |   |    |              |
|------------------------------|--------------|----------------|--------------------------------------|-------------------------|---|----|--------------|
|                              |              |                |                                      |                         | connecting to into private drainage network.      |    |              |
| <b>3</b>                     | Transitional | Liffey Estuary | Uncollected run off                  | Pollution               | As above  | No | Screened out |
| <b>4</b>                     | Coastal      | IE_EA_090_0000 | Yes – via effluent discharge to WWTP | Impact on water quality | WWTP has recently been upgraded and has capacity. | No | Screened out |
| <b>DECOMMISSIONING PHASE</b> |              |                |                                      |                         |   |    |              |
| <b>1.</b>                    | N/A          |                |                                      |                         |   |    |              |