



An  
Coimisiún  
Pleanála

## Inspector's Report ABP-322089-25

<b>Development</b>	Demolition of structures, construction of Build to Rent apartments comprising of 63 apartments in 2 blocks with all associated site works
<b>Location</b>	'Dunelm', Rydalmount, Milltown Road, Dublin 6
<b>Planning Authority</b>	Dublin City Council South
<b>Planning Authority Reg. Ref.</b>	4578/22
<b>Applicant(s)</b>	Westbridge Milton Limited.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant Permission
<b>Type of Appeal</b>	First & Third Party
<b>Appellant(s)</b>	1.Westbridge Milltown Limited 2.Richview Residents Association 3.Paul Kelly 4.John and Joanne Hanna and others
<b>Observers</b>	Jackie Frawley

**Date of Site Inspection**

3<sup>rd</sup> October 2025.

**Inspector**

Peter Nelson

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Appendix 1 – Form 1: EIA Pre-Screening

Form 3 EIA Screening Determination.

Appendix 2 - Appropriate Assessment

Appendix 3 - Water Framework Directive

## 1.0 Introduction

- 1.1. This is a first and third-party appeal against the decision of Dublin City Council to issue notification to grant permission for the construction of 59 residential units with associated development on a site on the Milltown Road, Dublin 6. The issues raised in the grounds of appeal are set out in Section 7 of this report.
- 1.2. The Board previously made a decision on this appeal under reference number **ABP-315883-23**. This decision was quashed by order of the High Court, and the case was remitted back to the Board for a fresh determination. The appeal has been reactivated under **ABP-322089-25**. The following report represents a *de novo* assessment of the proposed scheme.

## 2.0 Site Location and Description

- 2.1. The appeal site is in Milltown, Co. Dublin. The site contains a modern two-storey dwelling and domestic outbuildings known as 'Dunlem'. The site is located to the north of Milltown Road (R820) and to the east of the Green Luas line, to the south of residential dwellings Nos 1 and 2 Rydalmount and east of residential dwelling 'Kadiv' at Rydalmount, Milltown Road. To the west of the site and on the opposite side of the Luas line and Richmond Avenue is Richmond Court, a three and four storey apartment development. Southeast of the site on the opposite side of Milltown Road is the Shanagarry apartment development comprising of 5no. apartment buildings of six storeys in height.
- 2.2. The site has a stated area of 0.3174ha. The site has frontage onto a private access road along the eastern site boundary and includes a section of the Milltown Road. The site raises away from the public road and occupies an elevated position relative to the Dodder Valley to the south of the site. A retaining wall extends along the access road. There are a number of mature trees on site along the southeastern boundary and along part of the northern and western boundaries.
- 2.3. Milltown Luas station is approximately 45m north of the site and is accessed via Richmond Avenue South, a distance of approximately. 200m from the site entrance. There are a number of services and amenities, including school, childcare, church,

pharmacy and pub/restaurant within walking distance of the site and on the south side of Milltown Road is the Dodder Park

### **3.0 Proposed Development**

3.1. The proposal is for a Build-to-Rent apartment development consisting of:

- Demolition of the existing building (comprising the residential dwelling known as 'Dunelm') and structures on site;
- Construction of a Build-to-Rent (BTR) residential development, comprising 63 no. BTR apartments with a mix of 5 no. studio units, 27 no. 1 bed units, 30 no. 2 bed units and 1 no. 3 bed unit in two no. blocks (Block A and Block B), including resident support and amenity facilities;
- Block A, to the south of the site, comprises 55 no. BTR units, including 1 no. studio, 27 no. 1 bed units, 26 no. 2 bed units and 1 no. 3 bed units, in a part 4 to part 6 storey, over lower ground floor and basement level building (maximum of eight levels to Milltown Road). Resident support and amenity facilities are proposed at basement, ground and fifth floor level. Balconies are proposed on the northwest, southwest, southeast and northwest elevations;
- Block B, to the northwest of the site, comprises 8 no. BTR units, including 4 no. studio units and 4 no. 2 bed units, in a 4-storey building. Balconies are proposed on the south, east and north elevations. Block A and Block B will be connected by a bridge link at first to third floor level;
- The development includes ancillary resident support and amenity facilities for the BTR residential units, with a total floor area of 252.5 sq.m, including a large item storage area and a bike and bin store at basement level, concierge/management area and foyer area at ground floor level and lounge/residential function room at fifth floor level all within Block A and a pavilion communal amenity building to the north of Block A;
- The proposal includes communal open space at ground level and a communal roof terrace at fifth floor level of Block A;
- The basement level (Block A) contains 10 no. car parking spaces, 1 no. motorcycle space, 6 no. e-scooter spaces and 98 no. cycle spaces (including

2 no. cargo spaces). The basement level also includes bin storage, a storage room for apartments and cores. A generator room, sprinkler tank room and water storage tank room are proposed at lower ground floor level;

- The proposal includes 32 no. cycle parking spaces and 2 no. car parking spaces at surface level, accessed from the existing access road and a new vehicular access to the basement level from the access from Milltown Road;
- The proposal includes associated public realm works to Milltown Road, including alterations to the existing footpaths/ public road, a new signalised junction incorporating advanced cycle stacking lanes in the westbound direction, set back of the existing road median, provision of a new signalised pedestrian crossing of Milltown Road, provision of an uncontrolled pedestrian crossing of the development access junction and associated signals, tactile paving and road markings;
- The proposal includes an ESB substation and associated set down area, landscaping, boundary treatment, PV panels, green roofs and a plant enclosure at roof level, site services and all associated site works necessary to facilitate the development.

### 3.2. Summary of Key Development Details as Applied for.

	Proposed Development
Application Site Area	0.3147 ha (including 0.088 ha of DCC lands for public realm works.
No. Units	63
Demolition	The residential dwelling known as 'Dunelm' and structures on site, with a combined gross floor area (GFA) of 539 sq.m.
Mix	5no. studio units (8%) 27no. 1 bed units (43%) 30no. 2 bed units (47%) and 1no. 3-bed units (1%)

Plot Ratio	<p>Plot Ratio -2.3</p> <p>Total proposed floor area (5,215 m<sup>2</sup>)/ Net site area (2,267m<sup>2</sup>) (applicant ownership boundary)</p>
Site Coverage	47%
Density	278 dph
Building Height	<p>Block A – 4 to 6 storey, over lower ground floor and basement level building (maximum of eight levels to Milltown Road).</p> <p>Block B – 4 storeys</p> <p>Maximum height of 19.86 (Block A)</p>
Dual Aspect	31 units (49.2%)
Car Parking	<p>12 no. car parking spaces including:</p> <ul style="list-style-type: none"> <li>• 10no. at basement level</li> <li>• 2 no. surface car parking</li> </ul> <p>(Ratio of 0.2 surface car parking spaces)</p> <p>The 12no. spaces includes 10no. Electric Charging, 4 no. car club spaces and 2 no. accessible spaces.</p>
Cycle Parking	<p>130 no. cycle parking space including:</p> <ul style="list-style-type: none"> <li>• 98no. secure space at basement level (inc. 2 cargo space)</li> <li>• 32 visitor spaces at surface level.</li> </ul>
Residents Support Amenities and Facilities	<p>252.5 m<sup>2</sup> of Residential Support Amenities and Facilities including:</p> <ul style="list-style-type: none"> <li>• Large item storage area,</li> <li>• Bike and bin store</li> <li>• Communal amenity building</li> <li>• Concierge/management area and foyer area.</li> </ul>



	<ul style="list-style-type: none"> <li>Lounge/residents function room at 5<sup>th</sup> floor level</li> </ul>
Public and Communal Open Space	<p>No public open space</p> <p>691m<sup>2</sup> communal open space including external areas at ground (573m<sup>2</sup>) and 5<sup>th</sup> floor level (118m<sup>2</sup>).</p>
Children's Play Area	85m <sup>2</sup>

Amendments at FI stage reduced the number of apartments from 63 units to 59 units.

## 4.0 Planning Authority Decision

### 4.1. Decision

On the 28<sup>th</sup> July 2022 the Dublin City Council requested the applicant to submit 6no. points of further information relating to the following:

- The submission of additional CGI's.
- Concerns relating to the location of the two apartment blocks and their relationship to the site boundaries.
- Details relating to the size and scale of the natural play pockets and the privacy of the ground floor balconies.
- The retention of the southern boundary tree belt and the inclusion of a green roof finish.
- Further details of the proposed materials and their integration into the existing environment.
- Clarification on the ownership of the private access laneway, pedestrian access, service vehicle arrangements, increased car parking provision, revised junction, revised Road Safety Audit and construction phasing and access arrangements.

After the submission of Further Information, Dublin City Council granted permission for the proposed development on the 27<sup>th</sup> of January 2023, subject to 23no. conditions.

#### 4.1.1. **Conditions**

23no. Conditions were attached to the grant of permission. Permission of note include:

**Condition no. 2** relates to development contributions.

**Condition no. 3** relates to contribution in lieu of public open space.

**Condition no. 4** relates to cash deposit or bond for the satisfactory completion of the development.

**Condition no. 5** relates to a tree bond.

**Condition no. 6** stipulates the omission of Block B from the scheme in its entirety along with the connecting walkway and a revised landscaping scheme which incorporates these lands into their communal open space allowing for a single 100sq.m designed play area.

**Condition no. 7** stipulates the removal of one no. 2 bed unit identified as A.5.58 from the top floor of Block A.

**Condition no. 16** relates to the to the agreement of details for the site access and junction at the Milltown Road, an Operational Waste Management Plan, Parking Management Plan, Construction Management Plan and road construction standards.

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

##### 4.2.1. Planning Reports

The main points of the first planning report dated the 21<sup>st</sup> September 2022 can be summarised as follows:

- The principle of the demolition of the existing large, detached property set on a large plot is considered acceptable in this instance,

- Given the location adjacent to the Luas, in principle the site could accommodate a building of this scale.
- Concerns regarding the bulk and scale of the development given the length of Block A and the proximity of the block to the eastern boundary of the site, where it adjoins the Kadiv House.
- Additional CGIs are required.
- The density is concerning.
- The location of Block B, so close to the boundary with the Luas Line, is a concern and the quality of the amenity afforded to the units which are orientated in that direction.
- This concern is also noted in relation to Block A and its location close to the northeastern boundary. Further information can be sought on these issues.
- The proposed room sizes, room widths, and aggregate bedroom and living areas either meet or exceed the required standards throughout the development.
- Concerns regarding the quality and the spaces provided at ground floor level and consider that further information is required.
- The application has not demonstrated that a significant reduction in car parking would be suitable in this location.
- Full details of proposed cycle-parking facilities are absent from the submission and further information should be sought regarding the proposed facilities.
- It is considered that the blocks have been positioned which allow for sufficient setbacks to boundaries and that the existing and proposed landscaping treatment is sufficient to minimise overlooking and overbearing impacts.
- The development could have the potential to be viewed as overbearing and with some level of overlooking which requires further modification.
- The applicant should provide further detailing and illustrations on the choice of materials and their integration into the surroundings.

- Further information is required from the Transportation Division regarding anticipated phasing of the site and access arrangements.

The main points of the second planning report dated the 1<sup>st</sup> February 2023 and prepared after the submission of Further Information can be summarised as follows:

- The development will be assessed under the new 2022-2028 Dublin City Plan which was adopted since the request of Further Information was requested.
- The application has detailed additional changes which have been incorporated into the scheme to overcome the Planning Authority concerns in relation to the visual impact of the development on the surrounding sites.
- The changes to the scheme and the reduction in the number of units on the site i.e., from 63 units to 59 units are welcomed.
- A revised sunlight, daylight and shadow assessment show an improvement in compliance with the revised scheme.
- A condition is required to provide the large play area is provided with additional play equipment.
- The privacy strips/defensible areas to ground floor apartments are acceptable.
- The building materials to be used are now acceptable.
- A Car Parking Management Plan should be conditioned.
- A CMP should be conditioned.
- The final traffic signal infrastructure design and the required update to the RSA can be conditioned.
- The removal of Block B would allow for a more meaningful communal open space area to be provided for such a large residential development.
- The removal of one unit 2 bed unit identified as A.05.58. on the top floor will allow for a further step down toward the neighbouring property at Kadiv and also will reduce the visual impact of the block to the street.

- The proposal is in line with the residential zoning of the site and the proper planning and sustainable development of the area.

#### 4.2.2. Other Technical Reports

##### **Parks, Biodiversity & Landscape Services** (Reports dated 25/01/2023)

The Parks Service set out that they have reservations due to the high loss of significant trees which will negatively impact the local amenity. Landscape conditions recommended, in addition to tree protection, tree bond and a contribution in lieu of public open space.

##### **Transport Planning Division** (Report dated 21/01/2023)

Parking is considered low, and a Car Parking Management Plan is required. Access to the site is constrained. Recommended Clarification of Further Information. Schedule of conditions included in the report if permission is granted. Recommendation of TII also included.

**Drainage Division:** (Report 16/01/2022): No objection subject to conditions.

**Archaeology** (Report dated 13/09/2022): No objection subject to conditions.

**Environmental Health** (Report not dated): No objection subject to conditions.

#### 4.3. Prescribed Bodies

**TII:** Report dated the 19<sup>th</sup> August 2022 recommends conditions safeguarding Luas infrastructure and operations recommended in the event of a decision to grant permission.

#### 4.4. Third Party Observations

A number of third-party observations were made on the planning application. These include observations from local residents and local resident groups. Issues raised in the observations included inter alia the following:

- Design – building alignment, height and scale.
- Excessive density
- BTR typology
- Lack of family units
- Visual impact assessment
- Lack of proposed car parking.
- Traffic and transportation concerns
- Residential amenity – loss of light, noise.
- Concern over AA screening report
- Proximity to Nine Arch Bridge / Viaduct (Protected Structure)
- Archaeology
- Loss of existing trees and vegetation.
- Lack of adequate refuse storage areas.
- Impact of construction.
- Issues with the Site Notice.
- Lack of consent to use access road.
- Lack of social infrastructure.

## 5.0 Planning History

### **P.A. Reg. Ref: 2979/18 –**

Permission granted on 29th June 2018 for Permission for internal & external alterations to exist. 2-storey detached dwelling, and for Retention of attic conversion.

### **P.A. Reg. Ref: 3291/11 –**

Permission granted on the 7<sup>th</sup> November 2011 for internal & external alterations to exist. dwelling, including new 2-storey front entrance glazed screen, new replacement gr. fl. side & rear glazed doors, remove 1 no. side chimney & raise part of side single storey roof.

## 6.0 Policy Context

### 6.1. National Policy

#### **National Planning Framework First Revision (NPF)**

The National Planning Framework (NPF) is the Government's high-level strategic plan for shaping the future growth and development of our country out to the year 2040.

It is focused on delivering 10 National Strategic Outcomes (NSOs). NSO 1 is 'Compact Growth'. The NPF states that:

*'Carefully managing the sustainable growth of compact cities, towns and villages will add value and create more attractive places in which people can live and work. All our urban settlements contain many potential development areas, centrally located and frequently publicly owned, that are suitable and capable of re-use to provide housing, jobs, amenities and services, but which need a streamlined and co-ordinated approach to their development, with investment in enabling infrastructure and supporting amenities, to realise their potential. Activating these strategic areas and achieving effective density and consolidation, rather than more sprawl of urban development, is a top priority.'*

#### **National Policy Objective 4**

A target of half (50%) of future population and employment growth will be focused in the existing five cities and their suburbs.

#### **National Policy Objective 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.

#### **National Policy Objective 9**

Deliver at least 30% of all new homes that are targeted in settlements other than the five Cities and their suburbs, within their existing built-up footprints and ensure compact and sequential patterns of growth.

#### **National Policy Objective 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.

### **National Policy Objective 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.

### **National Policy Objective 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.

### **National Policy Objective 42**

To target the delivery of housing to accommodate approximately 50,000 additional homes per annum to 2040.

### **National Policy Objective 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.

## **Section 28 Ministerial Guidelines**

The following is a list of Section 28 - Ministerial Guidelines considered of relevance to the proposed development. Specific policies and objectives are referenced within the assessment where appropriate.

- Urban Development and Building Heights - Guidelines for Planning Authorities – (DoHPLG, 2018).
- Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (DoEHLG, 2020)
- Sustainable Residential Development and Compact Settlement Guidelines (DoEHLG, 2024).



Quality Housing for Sustainable Communities (DoEHLG, 2007).

- The Planning System and Flood Risk Management including the associated Technical Appendices (DEHLG/ OPW, 2009).
- Childcare Facilities Guidelines for Planning Authorities (2001).
- Architectural Heritage Protection Guidelines for Planning Authorities (2011)

## 6.2. Regional Policy

Regional Spatial and Economic Strategy (RSES) 2019 – 2031

The Eastern & Midland Regional Assembly 'Regional Spatial & Economic Strategy 2019-2031' provides for the development of nine counties including Dublin City and supports the implementation of the National Development Plan (NDP).

## 6.3. Development Plan

### Dublin City Development Plan 2022-2028

The Dublin City Development Plan 2022-2028 is the operational plan for the area. The plan came into effect on the 14th December 2022.

### Zoning

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

Build to Rent is open for consideration under the Z1 zoning objective.

Built Heritage - The site sits to the east of the Nine Arches viaduct, a Protected Structures (RPS ref. 886) and to the north of Protected Structure (RPS 5254) Laundry Stack, located on the opposite side of Milltown Road.

Archaeology -The southern part of the site is partially within the zone of archaeological potential associated with a millrace that runs into Darty Dye Works (DU022-096).

### Policies

The policy chapters, especially Chapters 5 – Quality Housing and Sustainable Neighbourhoods, detailing the policies and objectives for residential development,

making good neighbourhoods and standards respectively, are to be consulted to inform any proposed residential development.

**Policy QHSN10** of the development plan promotes sustainable densities in accordance with the Core Strategy, in particular on vacant and/ or underutilised sites.

**Objective QHSN04** seeks to support the ongoing densification of the suburbs. and to support infill development.

**Policy QHSN11** seeks 'To promote the realisation of the 15-minute city which provides for liveable, sustainable urban neighbourhoods and villages throughout the city that deliver healthy placemaking, high quality housing and well designed, intergenerational and accessible, safe and inclusive public spaces served by local services, amenities, sports facilities and sustainable modes of public and accessible transport where feasible'.

The following policies are also considered relevant:

**Policy SC16** - to recognise the predominantly low rise character of Dublin City whilst also recognising the potential and need for increased height in appropriate locations including the city centre, Strategic Development Zones, Strategic Development Regeneration Areas, Key Urban Villages and other locations as identified in Appendix 3, provided that proposals ensure a balance with the reasonable protection of existing amenities and environmental sensitivities, protection of residential amenity and the established character of the area.

**Policy SC17** – to protect and enhance the skyline of the city, and to ensure that all proposals with enhanced scale and height:

- follow a design led approach;
- include a masterplan for any site over 0.5ha (in accordance with the criteria for assessment set out in Appendix 3);
- make a positive contribution to the urban character of the city and that responds positively to the existing or emerging context; deliver vibrant and

equitable neighbourhoods that are walkable, compact, green, accessible, mixed and balanced;

- do not affect the safety of aircraft operations at Dublin Airport (including cranage); and
- have regard to the performance-based criteria set out in Appendix 3.

**Policy CA6** - promote and support the retrofitting and reuse of existing buildings rather than their demolition and reconstruction, where possible. I also note Section 15.7.1 which refers to demolition and the requirement to submit a demolition justification report which has regard to the embodied carbon of existing structures.

**Policy QHSN36** – promote the development of high-quality apartments and sustainable neighbourhoods with suitable supporting infrastructure/ facilities to be provided.

**Policy QHSN38** – encourage a greater mix of housing types.

**Policy QHSN40** – to facilitate Built to Rent Accommodation in specific location and to ensure that there is not a proliferation and over concentration of BTR development in any one area.

**QHSN41** – to discourage BTR Accommodation of schemes of less than 100 units.

**QHSN42** – to ensure that resident support facilities are appropriate to the intended rental market.

**QHSN44** – to avoid the proliferation and concentration of clusters of build to rent/student accommodation/co-living development in any area of the city.

**Policy QHSN48** – Need for a Community and Social Audit for all developments in excess of 50 units.

**Policy BHA6** - That there will be a presumption against the demolition or substantial loss of any building or other structure which appears on historic maps up to and including the Ordnance Survey of Dublin City, 1847. A conservation report shall be submitted with the application and there will be a presumption against the demolition or substantial loss of the building or structure, unless demonstrated in the submitted conservation report this it has little or no special interest or merit having regard to the

provisions of the Architectural Heritage Protection Guidelines for Planning Authorities (2011).

Chapter 8 refers to Sustainable Movement and Transport and Chapter 10 refers to Green Infrastructure and Recreation.

**Policy G126** – to give priority to acquiring new public open space on-site, particularly in areas identified in the Council's Parks Strategy 2019 as deficient in public open space. Where it is not feasible or realistic on site, the Council will require a financial contribution in lieu of provision to provide appropriate open space in the vicinity. The methodology for calculating this contribution shall be included in the City's Development Contribution Scheme.

**Policy G128** - to ensure that in new residential developments, public open space is provided which is sufficient in amenity, quantity and distribution to meet the requirements of the projected population, including play facilities for children and that it is accessible by safe secure walking and cycling routes.

**Policy G140** – to require appropriate and long-term tree and native hedgerow planting in the planning of new development, urban spaces, streets, roads and infrastructure projects. New development should seek to provide for additional tree planting using a diversity of species including native species as appropriate to the location of the development in the interests of natural heritage, amenity, environmental quality and climate resilience.

**Policy G141**- to protect existing trees as part of new development, particularly those that are of visual, biodiversity or amenity quality and significance. There will be a presumption in favour of retaining and safeguarding trees that make a valuable contribution to the environment.

**Policy G142** - to adopt a pro-active and systematic good practice approach to tree management with the aim of promoting good tree health, condition, diversity, public amenity and a balanced age-profile and as per Dublin City Tree Strategy 2016.

**Policy G143** - support the preparation of an Urban Tree Canopy Plan for the City Centre Area and Inner City in the lifetime of this plan. To increase the tree canopy cover to a minimum of 10% in all areas with an emphasis in increasing the tree canopy cover in areas where there is a deficit, and a minimum of 5% each year in

the city centre (a minimum of 5% per year over 6 years = a minimum of 30% over the life time of the plan)

**Chapter 15** refers to Development Standards. Documents to be provided in support of applications in terms of thresholds is provided in Table 15-1. The issues of Height and Plot Ratio are addressed in Appendix 3. Increased density is to be supported where this can be demonstrated to be appropriate.

Section 15.8 refers to Residential Development. A number of sections are highlighted here:

Public Realm is addressed under Section 15.8.5.

Public open space to be provided at 10% minimum of the Site Area for Z1 zoned lands (Table 15-4).

Section 15.9 refers to Apartment Standards.

Unit mix is covered under Section 15.9.1 and states: 'Specific Planning Policy Requirement 1 states that housing developments may include up to 50% one bedroom or studio type units (with no more than 20-25% of the total proposed development as studios) and there shall be no minimum requirement for apartments with three or more bedrooms unless specified as a result of a Housing Need and Demand Assessment (HNDA) carried out by the Planning Authority as part of the development plan process'. SPPR is identified as being applicable to this area of the city.

Unit Size/ Layout is addressed under Section 15.9.2 and Table 15-5.

Dual Aspect units under Section 15.9.3. In the outer city (beyond the canal ring) and within the SDRA's, schemes with a minimum of 33% dual aspects units will only be considered in exceptional circumstances.

Communal Amenity Space under Section 15.9.8

Microclimate under Section 15.9.16

Daylight and Sunlight under Section 15.9.16.1, Wind under Section 15.9.16.2 and Noise under Section 15.9.16.3

Volume 2 of the City Plan provides the Appendices and Appendix 1 – Housing Strategy, Appendix 3 – Achieving Sustainable Compact Growth, Appendix 5 –

Transport and Mobility: Technical Requirements, Appendix 13: Surface Water Management Guidance and Appendix 16: Sunlight and Daylight are noted as most relevant to this development.

**Appendix 3** includes a Height Strategy for Dublin City and I note the following:

‘Prevailing Height: This is the most commonly occurring height in any given area. It relates to the scale, character and existing pattern of development in an area. Within such areas, there may be amplified height. This is where existing buildings within the streetscape deviate from the prevailing height context, albeit not to a significant extent, such as local pop-up features. Such amplified height can provide visual interest, allow for architectural innovation and contribute to a schemes legibility’.

Key Criteria for increased height are indicated in Table 3 of Appendix 3. Density is addressed under Section 3.2. The Outer Suburbs have a density range of 60 to 120 units per hectare and there is a presumption against densities of 300 units per hectare. Plot Ratios in Outer Employment and Residential Areas are between 1.5 – 2.5 and with an Indicative Site Coverage of 45-60% (Table 2).

**Appendix 5** addresses Transport and Mobility. Car Parking and Cycle Management is detailed under section 2.5. Table 1 provides ‘Bicycle Parking Standards for Various Lane Uses’ and Table 2 provides ‘Maximum Car Parking Standards for Various Land Uses’.

#### 6.4. **Natural Heritage Designations**

The River Dodder is located c.42m south of the site.

South Dublin Bay Special Area of Conservation (Site Code: 00210) is 3.2km from the site.

North Dublin Bay Special Area of Conservation (Site Code: 000206) is c.7.3km from the site.

South Dublin Bay and River Tolka Estuary Special Protection Area (Site Code: 004024) is c.3.2km from the site.

North Bull Island Special Protection Area (Site Code: 004006) is c. 7.3km from the site.

## 7.0 Environmental Impact Assessment Screening

- 7.1.1. One third party point of appeal relates to the correctness and robustness of the screening of the need for an Environmental Impact Assessment Report having regard to the EIA Directives.
- 7.1.2. The application addresses the issue of EIA within an EIA Screening Report that contains information to be provided in line with Schedule 7A of the Planning Regulations.
- 7.1.3. I note the applicant's Statement of Response to Section 131 Request dated April 2025 addresses concerns regarding the adequacy of the EIA screening and the potential impacts on bats. It states that the bat surveys conducted in 2021 identified low-moderate bat activity in the site but did not indicate the presence of significant bat roosts. I note that the EclA nor the Bat Report identified any impacts as potentially significant. The Section 131 response states that a subsequent ground truthing survey in April 2025 confirmed that the bat roost potential of the trees on the site remains low, with no evidence of high-value roosts.
- 7.1.4. I have had regard to the appeal concerns, the applicant's EIA Screening Report and Statement of Response to Section 131 Request in my screening assessment in Appendix 1 hereto. The EIA Screening Report identifies and describes adequately the direct, indirect, secondary and cumulative effects of the proposed development on the environment.
- 7.1.5. This proposed development is of a class of development included in Schedule 5 to the Planning Regulations. Schedule 5 to Part 2 of the Planning Regulations provides that mandatory EIA is required for the following classes of development:
- Class 10(b)(i) construction of more than 500 dwelling units,
  - Class 10(b)(iv) urban development, which would involve an area greater than 2 ha in the case of a business district\*, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere.

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

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

- works of demolition carried out in order to facilitate a project listed in Part 1 or Part 2 of this Schedule where such works would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7 and 7A.

7.1.6. The development would provide for the demolition of the existing two storey 260sqm domestic dwelling known as 'Dunelm' and a 35sqm domestic outbuilding on the site, the construction of 59 (reduced to 59 in response to RFI) apartments, ancillary resident support and amenity facilities for the BTR residential units, and associated infrastructural works, including basement structures, all on a gross site area measuring 0.3147ha (including 0.088ha. of DCC lands) in a non-business district in a built-up urban area. Having regard to classes 10(b)(i) and 10(b)(iv) of Schedule 5 to Part 2 of the Planning Regulations, the proposed development is subthreshold in terms of the mandatory submission of an EIA. The nature and the size of the proposed development is below the applicable class 10(b) thresholds for EIA. Further consideration with respect to 'class 14' demolition works is undertaken below.

7.1.7. I have completed an EIA screening assessment of the proposed development with respect to all relevant considerations, as set out in Appendix 1 to this report. I am satisfied that the location of the project and the environmental sensitivity of the geographical area would not justify a conclusion that the proposed development would be likely to have significant effects on the environment.

7.1.8. Having regard to: -

1. the criteria set out in Schedule 7 and 7A, in particular
  - (a) the limited nature and scale of the proposed housing development, in an established residential area served by public infrastructure
  - (b) the absence of any significant environmental sensitivity in the vicinity, and the location of the proposed development outside of the designated archaeological protection zone
  - (c) the location of the development outside of any sensitive location specified in article 109(4)(a) of the Planning and Development Regulations 2001 (as amended)



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

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

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

## **8.0 The Appeal**

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

A first-party appeal has been lodged only against condition no. 6 and condition no. 7 attached to the Planning Authority's notification of a decision to grant planning permission for the proposed development. The main grounds of appeal are summarised as follows:

#### Condition No. 6

- The PA rationale for removing Block 6 relates to the quantum and quality of communal open space.
- The revised scheme submitted at Further Information stage provides an appropriate quality and quantum of communal open space with ancillary play areas which accords with the recommendations of the Apartment Guidelines 2020/22.
- The total communal open space of 510sq.m exceeds the minimum open space required under Apartment Guidelines 2020 (2022)/Chapter 15 of the Development Plan.
- All apartments are provided with adequate private open space.
- The hard surface and seating area around Block B provide an informal

walking path with pockets of natural play area.

- The roof terrace also includes seating areas which maximises view across Shanagarry Park, the River Dodder and to the Dublin Mountains.
- The two play areas are considered to be appropriate given the particular scheme and the constraints of the site.
- The area provides a space and a setting for play, with the emphasis on natural play spaces and focuses on the type of play for younger children.
- The omission of Condition No.6 is not warranted and would result in an underutilisation of the brownfield, infill site adjacent to Milltown Luas Stop.
- Block B has a suitable level of residential amenity including access to adequate daylight levels.
- The angled relationship of the two proposed buildings ensures a high quality of residential amenity.
- There is adequate separation distance between proposed block B and No.1 & 2 Rydalmount.
- There is substantial screening between Block B and No.1 & 2 Rydalmount.
- The submitted response on this appeal from GS Consulting in association with MSA Fire Consultants alleviates any concerns in respect to the emergency access arrangements for Block B.
- CS Consulting response provides a justification for the proposed car parking provision.
- Notwithstanding the comments above, a revised scheme has been submitted which results in the omission of the link building and incorporates the pavilion amenity building into the ground floor of Block A.
- The revised proposal would result in a BTR scheme of 56No. apartments and would successfully address the Planning Authority's concerns in respect to Block B and the communal open space provision, whilst retaining some additional much needed apartments on this part of the site.

#### Condition No. 7

- The revisions to Block A at Further Information stage which included a reduction in the footprint and massing of the northeastern portion of Block A, including

the stepping back of the fifth floor to improve the relationship with Kadiv and Rydalmount House and will address concerns in respect to the potential for overlooking.

- CGI images are submitted showing that the proposed development is screened from Kadiv by the existing planting and proposed semi-mature planting will mitigate any adverse visual impacts on the residential amenity of the adjoining properties.
- The location and design of Apartment A05.58 does not have the potential to overlook or be considered overbearing from the property at Kadiv.
- There would be minimal, if any, benefit arising from the loss of the unit in the context of the visual or residential amenity impact on Kadiv.
- The scheme as revised at Further Information stage provides an appropriate design, scale and massing from Block A vis-à-vis its relationship with the surrounding properties.

## **8.2. Grounds of Appeal – Third Party**

Three third-party appeals have been received, in respect of Dublin City Council's recommended decision to grant permission, from:

1. Richview Residential Association
2. Paul Kelly,
3. John Whelan and Others, C/o Marston Planning Consultancy,

There is overlap between the grounds of appeal raised by appellants, for clarity I have combined the submissions. The main grounds of appeal are summarised as follows:

### Legal Consent

- The applicant has not proven ownership of the entirety of the site.

### Density

- The density is over twice that allowed for in the DCC development Plan 2022-2028.
- The density in the outer suburbs should be 60-120 dph.

### Building Height

- The height is greater than permitted in the DCC development Plan 2022-2028.

### BTR

- In pre-application discussions with Dublin City Council, a build to rent scheme was not supported.
- The Development Plan seeks to limit BTR developments.
- BTR promotes a transient population.

### Public Open Space

- The council, in seeking contributions rather than requiring public space, are providing a derogation in one of the first development under the 2022-2028 Development Plan.

### Access, Traffic & Transport

- The existing driveway is narrow and an increase in traffic will lead to increased hazard.
- The proposed swept analysis highlights issues using the laneway.
- There are inadequate transport links in Milltown.
- Residents who do not use the Luas are poorly served and will have to rely upon cars for transport.
- Insufficient car parking is proposed.
- The proposed entrance will cause a traffic hazard.
- The traffic study was carried out during Covid and is not reflective of the more long-term volumes.
- There is insufficient provision for delivery vehicles.
- Potential for overspill of parking to surrounding areas.
- The use of the existing laneway for pedestrians to the proposed development will create traffic hazard as there is no footpath.
- The applicant has failed to consider the issue of public transport capacity in making the application.
- There is a lack of cycling infrastructure.

### Visual Impact and Impact on Built Heritage

- The proposed development will have a negative impact on the Nine Arches Bridge which is a protected structure.
- The proposed development will compete with the setting of the protected structure and will be in material contravention to the Protect Structures policies of the Development Plan.

### Residential Amenity

- The proposed development will have a negative effect on the residential amenity of No.1 & 2 Rydalmount due to overlooking from balconies.
- Removal of Block B should have led to the planning authority to refuse permission.
- The omission of the top floor unit A05.58 will only have a marginal benefit to the residents of Rydalmount House/Kadiv.
- The resulting terrace will result in noise disturbance.
- Block A will cause overshadowing and overlooking of Rydalmount House/Kadiv.
- The lower ground floor apartments will have poor residential amenity.

### Social Infrastructure

- There is no practicing medical centre in Milltown.

### Childcare and Schools

- There is a lack of non-fee-paying schools in Milltown.

### Flood Risk

- Concerns regarding increase in surface water run-off as a result of the development and the potential to cause flash flooding downstream. Condition no. 20 not sufficient to address these concerns.

### Loss of Trees

- 77% tree removal. Any new planting will not provide that same carbon capture.

### Negative Impact on Property Value

- The proposed development will have a negative impact on the value of properties adjoining the boundaries of the subject site given the overbearing nature of the development, the decrease in light and the loss of residential amenity.

#### Construction

- A construction plan has not been submitted.
- Fear the existing residents will not be able to access their dwellings during construction.
- The right of way over the existing laneway does not allow for construction access.
- The 18-month construction programme will result in traffic hazard along the private laneway and public safety concerns of the third parties as well as the construction workers at the appeal site.

#### Inadequacy of Assessment

- Concerns raised about the EAIR screening. It is considered that the cumulative impact of the proposal was not adequately assessed.

#### Post Planning

- In the event planning is granted there is a need to address access and fire safety that is not reliant of the laneway.

#### Site Notice

- The site notices incorrectly described that site as east of Kadiv and not west.

### **8.3. First Party Response to Third Party Appeals**

The first party states that the proposed development was assessed against the provisions of SPPR7 and SPPR8 of the Apartment Guidelines rather than 2022 Guidelines as set out in the Circular Letter NRUP 07/2022.

The first party addresses the grounds of appeal raised by the third-party appellants which can be summarised as follows:

#### Excessive residential density.

- Table 1 of Appendix 3 of the Development Plan does not include a density range for Inner Suburban areas or areas located on Key Public Transport Corridors.
- Section 4 of Appendix 3 acknowledges that greater building heights and densities will be supported in 'Key Locations' which includes 'Public Transport Corridors' which the subject site falls within.
- The proposed density, after amendments at further information stage, of 160 dph is considered to be appropriate and sustainable for this infill site beside high quality public transport.
- The PA has accepted a residential density above the net density ranges of 60-120 units per hectare for Outer Suburbs locations through its decision.
- The proposed density is appropriate having regard to the proximity to the Milltown Green Line Luas stop and a range of bus services, and other services and amenity in the Inner Suburban Area.
- The Transport Assessment demonstrates that the development will generate an additional 64 no. Luas passengers which is approximately 1.56% of the total Luas capacity and an additional 17 no. bus passengers.
- The proposed development will not result in an overdevelopment of the strategically located infill and residential zoned site.

#### Inappropriate height and scale.

- Section 4 of Appendix 3 acknowledges that greater building heights and densities will be supported in 'Key Locations' which includes 'Public Transport Corridors' which the subject site falls within.
- The proposed development has been assessed against the performance criteria included in Table 3 of Appendix 3.
- The Planning Report demonstrates how the proposed height is consistent with the development management criteria included in Section 3.2 of the Building Height Guidelines 2018.
- The composition and massing of the blocks are sympathetic to the architectural character and integrity of the wider surrounds.

- The reduction in height towards the northern edge of the site reduces the potential visual impact of the proposal when viewed from the adjoining residential properties.
- The proposed development will deliver additional scale and enclosure to Milltown Road and will enhance the streetscape to Milltown Road.
- The submitted Townscape & Visual Impact Assessment states that the site can accommodate the proposed development without undue consequences for the maintenance of the baseline situation.
- The submitted CGI demonstrates that the proposal along with the existing and proposed planting will not have an adverse impact in the residential amenity of neighbouring properties in respect to overlooking or overbearing.
- The proposed height, scale and design have carefully been accommodated on the subject site, without adversely impacting on the character or residential amenity of the area, therefore complying with key objectives of the Z1 residential land use zoning of the site.

#### Impact on residential amenity.

- Block A is situated c.27.5-33.9 m from Kadiv and is predominately screened by the existing vegetation screening and proposed semi-mature planting.
- There is no potential for direct overlooking from the setback terraces which have no accessibility for residents.
- The proposal will provide a suitable balance between delivering increased density and height on the site, in accordance with the principles of compact growth, and respecting the amenity of adjacent properties.
- There is no opportunity to provide a wraparound terrace at the upper floor of Block A when the apartment which is the subject of Condition No.7 is omitted.
- The Daylight and Sunlight Assessment illustrates that the front garden of Kadiv meets the BRE guidance of 2 hours sunlight, that excessive overshadowing will not arise.
- The living/dining/kitchen of the units in Block B have only secondary windows facing the west and north elevations towards No.1 Rydalmont.



- The revised footprint and internal layout removes the possibility of there being any potential negative impact on the apartments caused by the proximity of the boundary wall or by level differences.
- The proposed development does not adversely impact the adjacent properties and will not therefore depreciate the value of properties in the area.
- The Sunlight, Daylight & Shadow Assessment demonstrates that the proposed residential units at lower ground floor will achieve a good level of daylight generally in compliance with the recommendations of the relevant BRE Guidelines.

#### Visual impact on the protected structure.

- The response to third party concerns from Park Hood demonstrates that the proposal will not adversely impact the setting of the Nine Arches Bridge and the Laundry Chimney which are outside the development site.
- Policies BHA2 and BHA9 referred to in the third-party appeal relates to works to a protected structure and within an ACA and therefore are not applicable to the application.
- The proposed development will not be incongruous in terms of mass and scale when measured against that of existing apartment development within a short distance of the site.

#### Concerns regarding proposed BTR development.

- The BTR Justification Report demonstrates that the BTR development is acceptable having regard to Section 5.5.7- Specific Housing Typologies, Policy QHSN40 and Policy QHSN41 and Section 15.10 of the Development Plan.
- The site is considered suitable for BTR as it is adjacent to high quality and frequent public transport.
- The subject site is located within a short cycle to a number of employment locations.

- There is a prominence of owner-occupied houses (61%) when compared with apartments to rent within 1km of the site.
- The flexibility provided under the BTR provision of the Apartments Guidelines 2020 makes this site particularly suited for a smaller scale BTR development.
- The addition of 59 no. BTR units will not result in an over concentration of BTR schemes in the area.
- Given the current shortage of residential accommodation, particularly in the rental market, there is significant need for the proposed BTR units.

#### Impact of childcare/schools.

- The Social and Community Infrastructure Audit/Assessment demonstrates that there is sufficient social and community infrastructure within 1km of the site to cater for the needs of the proposed development.
- There are 5 post-primary schools within proximity of the site. The proposed development would increase demand in these schools by c.0.37%.
- The existing post-primary infrastructure can accommodate the predicted increase in demand and is adequate to cater for the proposed development.
- The proposed development will generate a childcare requirement of 7 places which would not be commercially viable.
- The existing childcare facilities are sufficient to cater for the estimated increase demand for childcare services arising from the proposed development.

#### Inappropriate removal of trees.

- The existing trees to be removed are either low or moderate quality.
- The proposal allows for 22no. trees to be planted ensuring no net loss of tree cover.
- The proposal seeks to provide a sustainable solution to the redevelopment of the site, balancing the need for higher densities in an accessible location, the protection of the existing trees and the replacement of trees which are

required to be removed/are in poor condition. with high quality replacement native tree species.

#### Concerns regarding construction impacts

- It is not proposed to utilise the existing laneway for construction access.
- Construction access will be from Milltown Road.
- The submitted Environguide response demonstrates that subject to the mitigation measure outlined, specifically in the CEMP, that the construction phase will not result in adverse environmental impacts.

#### Traffic and transport issues.

- The response from CS Consulting outlines that continuous footpaths are provided linking the development to Milltown Luas Stop.
- A signalised junction arrangement will ensure safe access and can be accommodated for vehicles, pedestrians and cyclists travelling to and from the site in a controlled environment.
- The 6no. shared car parking spaces required by condition No.16 reduces the car parking demand as the shared parking space may accommodate the equivalent trips as 14 private cars, reducing the car parking demand by approximately 78 spaces.
- The subject development is a BTR development and provisions are included in the apartment guidelines 2020 for reduced car parking for such developments in central and accessible locations.
- The management of the parking spaces within the development has been set out within the submitted Car Parking Management Plan which will be updated to the satisfaction of Dublin City Council.
- Servicing for occasional vehicles shall occur within the turning area situated to the north of the subject development site.
- A note regarding fire access by Michael Slattery and Associates outlines the development strategy in relation to fire tender access.

#### Lack of public open space.

- The total communal open space of 510m<sup>2</sup> exceeds the minimum open space required under the apartment guidelines 2020/Chapter 15 of the development plan of 345 m<sup>2</sup> based on the proposed unit numbers and mix.
- All apartments have adequate private amenity space.
- Due to the nature of the subject site, it is not possible to provide an area of public open space which would serve the wider area.
- This site is located near public amenity spaces such as the River Dodder Darty Park and Windy Arbour playground which provides sufficient areas of open space for local residents to enjoy.

#### Boundary queries.

- The submitted solicitors' letter confirms that the title to the private roadway is unregistered.
- The proposed development does not seek to alter the existing embankment arrangements along the existing laneway accessing the subject site and adjacent properties; therefore, no relevant planning issues arise in respect to the ownership of the site particularly noting the provisions of section 34 (13) of the Act.

#### Ownership of BTR scheme.

- The ownership of the BTR scheme is not a planning issue.
- The applicant has significant experience in funding and managing residential and commercial developments.

#### Validity of the site notice.

- It is recognised that the site notice incorrectly refers to the site as east of 'Kadiv', however it correctly identifies the site located east of the green Luas line and south of numbers 1 and 2.
- It is submitted that the interested third parties were not prejudiced by the content of the public notices.

#### Flood risk impacts.

- A site-specific flood risk assessment was submitted with the application which confirms that the proposed development is situated within Flood zone C and will not result in flooding on the subject development site or elsewhere in the surrounding area.

#### Inadequacy of assessment.

- The EIA Screening Report addressed the potential effects of the proposed development with other developments in Section 3.7.2, further appraisal was carried out in and summarized in section 3.7.2.1

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

A response was received from Dublin City Council dated the 3<sup>rd</sup> March 2023.

They request that the Coimisiún uphold their decision and grant permission and that conditions relation to the following be applied.

- Section 48 development contributions.
- Payment of a Bond.
- Contribution in lieu of the open space requirement not being met.
- A social housing condition.
- A naming and numbering scheme.
- A Covenant Condition.
- A Management Condition.

### **8.5. Observations**

An observation was received from Jackie Frawley. The main points raised can be summarised as follows:

- The majority of the apartments being built in Dublin are now BTR, leaving a lack of apartments to buy.
- Most of the BTR apartments in south Dublin are charging extortionate rents.
- BTR by their nature are transient and do not provide a sense of community and establishment of community ties in an area.

## **8.6. Further Responses to the First Party Appeal Response.**

8.6.1. The main points of the response from Marston Planning Consultants on behalf of John Whelan and others dated the 24<sup>th</sup> March 2023, can be summarised as follows:

### Access Laneway

- The submitted solicitor's letter provides clarity on the applicant's inability to access the private laneway for the proposed development and confirms that the applicant's right of way is restricted to one residential unit only.

### Condition No.6

- Contend that the reason for the removal of the Block B as required by Condition No.6 was not solely on the basis of inadequate level of open space but over the visual impact.
- The proposed appeal amendments with Block B remaining will not result in adequate open space.
- Rather than omitting Block B, the entire development should be refused as the proposed development will diminish the privacy and residential amenity of No.1 and 2 Rydalmount.

### Transportation

- The applicants revised swept path analysis for a fire tender indicates that a fire tender cannot access up the laneway in a safe and controlled manner.
- The submitted drawing indicates clear conflicts and an ability of a fire tender to gain access to Block B and rear of Block A.
- The proposed development includes two car parking spaces and bicycle spaces that will use the access laneway. There are currently issues with

entering the site and cars using the proposed entrance will potentially impede other traffic using the laneway.

#### Revised Scheme

- The revised Block B consists of two townhouses and should be assessed as such. There is no difference in terms of open space quantity or quality.
- These units should have private gardens which would reduce the amount of communal open space.
- The revised scheme fails to address the key concerns relating to Block B in terms of impact on neighbouring properties.
- There are therefore no grounds for omitting this condition.

#### Condition No.7

- The omission of unit A05.58 on the fifth floor is required by condition No.7
- The applicant considers that they have already altered the scheme to reduce any impact on the adjoining property in their response to FI
- Block A is deemed to be excessive in scale even allowing for the omission of unit A05.58.
- Concerns as to whether the scale and level of the Kadiv dwelling, and No.1 & 2 Rydalmount are shown correctly on the site elevation 02 of Drawings no. A-2000.
- The CGI and the landscaping drawings do not correspond.

#### Conclusion

- The proposed development should be refused as the right of way is restricted to one residential unit only.
- The proposed development constitutes overdevelopment of the site and does not respond to the neighbouring buildings.
- The proposed development will be visually incongruous along all streets and will be overbearing to the adjoining properties.
- The proposed development will result in serious traffic hazard due to the inadequate vehicular and pedestrian access and inadequate levels of car parking.

- There are concerns relating to the capacity of the Luas to cater for this and other developments, particularly to the south that are either permitted or proposed along the Luas line.
- The proposed development is contrary to its surrounding land use context and therefore should be refused.

8.6.2. The main points raised from Paul Kelly dated the 22<sup>nd</sup> March 2023 can be summarised as follows:

- Having regard to the submitted swept path analysis, it is difficult to understand how a fire truck will be able to access the site.
- The right of way is for a single dwelling and not for the proposed development of multiple units.
- The revised block B appears to have windows looking into No. 1 and No. 2 Rydalmount.
- The development is out of character with the demesne of Rydalmount.
- The applicant claims that there are no primary windows opposite each other, however the main room and bedrooms of Kadiv are facing the development.
- The top floor function room has a seating area that looks directly at Kadiv, this does not respect the privacy of the existing residents.
- There is no back garden in Kadiv, and the front garden serves as an amenity for the house. If this is overlooked there will be no privacy for the residents.
- A query is raised whether windows are proposed on the 1st floor east elevation.

## 8.7. Section 131 Responses

8.7.1. Having regard to the High Court Order in this case, the quashing of the previous Board decision and the passage of time, the Board considered that it was appropriate in the interests of justice to request relevant parties under section 131 of the Planning and Development Act 2000 (as amended) to make further submissions in relation to the appeal.



8.7.2. All parties were invited to make a submission in relation to the matters raised above on or before the 2<sup>nd</sup> of July 2024. This report considers the submissions made on foot of the request. The submissions received are summarised below.

**8.7.3. Planning Authority Response**

None Received

**8.7.4. Third Party Response**

Paul Kelly

The main points raised in the Section 131 response from Paul Kelly can be summarised as follows:

- Based on the swept path analysis provided it is difficult to understand how a fire truck will be able to navigate the private laneway.
- The existing gate at Kadiv has not been included in the sweep path analysis.
- There are normally cars parked on the laneway which will restrict fire truck access.
- Construction traffic will restrict fire truck access.
- The right of way is for a single dwelling and not for the proposed development, therefore construction traffic will not be permitted, and any eventual development will not be permitted to use the private laneway.
- The proposed development site is clearly in the outer city, and the density of the proposed development is more than double the Development Plan density guidance.
- The planner did not assess the proposed development in accordance with Appendix 3 of the Development Plan.
- An existing 10-foot wall will affect the light received by the proposed development.
- The proposed development does not provide a mix of units as required by the Development Plan.
- There are no social or community hubs for tenants to use in the permitted development.

- Contrary to the architectural report there are windows facing the primary widows of Kadiv.
- The proposed function room on Level 5 has a sitting area which can look directly in the home of Kadiv.
- There are windows in the 5<sup>th</sup> floor east elevation contrary to the statement from the first party.

#### Richview Residents Association

The main points raised in the Section 131 response from the Richview Residents Association can be summarised as follows:

- The density is over the twice that allowed for the area in the Development Plan.
- The height is greater than that permitted in the Development Plan.
- The proposed development will have a negative impact on the Nine Arch Bridge which is a protected structure.
- In pre-applications with Dublin City Council a Build To Rent scheme was not supported.
- BTR promotes a transient population which does not contribute to community.
- The Development Plan seeks to limit BTR development and therefore the proposed development should be refused.
- 77% of trees are to be removed. While some new trees are to be planted, they will not provide the same carbon capture as the existing trees.
- It is unclear how access to the existing houses are to be accessed during construction.

#### John Whelan and Joanne Hanna and others.

The main points raised in the Section 131 response from John Whelan and Joanne Hanna, Kevin Deane, Bernadette Kelly and Maria and Vivian Kelly can be summarised as follows:

- The proposed development site is located within the outer city area of Dublin City Council administrative area.

- The proposed development has a net area of 260 units per hectare, more than double the maximum of the range identified for the Outer Suburbs in the Development Plan.
- The Development Plan Glossary defines the site as being in the 'outer city'.
- There is no basis for interpreting that the Table 3 Appendix 3 criteria provides a justification for exceeding the density ranges set out in Table 1.
- The proposed development very significantly exceeds the prevailing context in terms of density.
- The proposed development is not a mixed-use development and will not promote mixed used development as required in Table 3, Appendix 3.
- There is no mix of typologies.
- There is an obligation to include an assessment of the of embodied energy impact at Category 7 of Table 3, there is no comprehensive assessment of embodied energy impacts of the proposed development.
- The Daylight/Sunlight Report is incomplete.
- Having regard to Appendix 3 of the Development Plan there are unambiguous grounds for refusing permission for the proposed development.
- The proposed development is a material contravention of the Development Plan.
- As the First Part's right of way is restricted to one residential dwelling only. The proposed development is contrary to this and should be refused.
- The scale of the proposed development will result in a serious traffic hazard.

#### Jackie Frawley

- The main points raised in the Section 131 response from Jackie Frawley can be summarised as follows:
- The number of Build to Rent apartments being built is leaving a lack of new apartment to buy.
- The proposed rents for units, such as that proposed will be unaffordable.

- Build to Rent units are by their nature transient.
- The proposed development represents over development of the site.
- The proposed development will create traffic hazard.
- The wall surrounding Dunelm appears to be linked to the viaduct which is a protected structure.
- Question of how the site will be accessed for the proposed development.

#### 8.7.5. First Party Response

The Section 131 response is based on the permitted development of 54no. Build to Rent Apartments, as revised by Condition No.2 of ABP's Order under Ref: 315883-23 which required Apartment Unit A05.58 from the proposed fifth floor of Block A to be omitted and Block B to be omitted committed in its entirety.

The main points raised in the Section 131 response can be summarised as follows:

- The proposed density aligns with the overarching objectives of the City Development plan, particularly those outlined in Appendix 3.
- The proposed density is justified by the site's location being within the late 19<sup>th</sup> Century City Boundary, i.e., 'Inner Suburbs' having regard to Figure 11.1 of the CPD that the site should not be categorised as Outer Suburban.
- The proposed density is within the 50-250 dph range outlined for 'City-Urban Neighbourhood' in the Compact Settlement Guidelines, 2024.
- As the site is within the area defined as the late 19<sup>th</sup> Century built up area of Dublin it cannot be considered as Outer City or Outer Suburbs.
- Table 1 of Appendix 3 of the Development Plan does not provide a density range for the inner suburbs area or areas located in Key Public Transport Corridors.
- The subject site is within 1km of the Luas, a high-capacity public transport node.
- The applicant has submitted an assessment of the proposal against the 10 performance criteria as set out in Table 3 of Appendix 3 of the City Development Plan: 'Performance Criteria in Assessing Proposals for Enhanced Height Density and Scale.'

- The applicant has detailed precedent examples of developments recently granted permission with similar densities in similar locations within the city.
- The applicant is willing to accept a condition in the Coimisiún's Order that requires a financial contribution in lieu of on-site public open space.
- The applicant acknowledges the extent of tree removal required on the site to facilitate the proposed development.
- The overall number of trees to removed is carefully balanced with proposed planting of 24 new trees.
- The council's Parks Department is satisfied that approach is consistent with the development plan's overall sustainability objectives.
- The proposed tree removal does not constitute a breach of the green infrastructure policies and therefore a material contravention does not arise.
- The proposed development represents an appropriate and reasonable approach to urban growth while minimising its environmental footprint.
- As the proposed development is not likely to result in significant effects on the environment, mandatory consultation with environmental bodies is not automatically triggered.
- The site benefits from a legal right of way over the private roadway abutting the property, which provides access to Milltown Road.
- Submitted documents confirms the applicant's lawful entitlement to use the private road for access.
- DCC have provided consent for the inclusion of their lands for the works at the entrance from Milltown Road which are required to facilitate the development.
- The EIA screening conclusion for the purposed development is adequate and that the likely significant impacts on bat fauna have been properly assessed and mitigated.

#### 8.7.6. Further Responses

##### Paul Kelly

The points raised in Paul Kelly's Further Response can be summarised as follows:

- The remittal application does not permit a change in planning for effectively a new development application based on the original approval by ACP being quashed by the Hight Court.
- Key details and updated amendments to the apartment type and layout have not been submitted.
- The limited amount of 2 bed apartments is not suitable for families with more than 1 child.
- There is not an adequate provision of parking spaces.
- The private laneway is not designed for the volume of uses being proposed.
- The proposed removal of trees is not consistent with development plan policy GI40, GI41, GI42 and GI043.
- The enclosed 1951 lease clearly states that the right of way applies to only one dwelling.
- The submitted boundary includes land which is not part of that owned by Dunelm. The owner of the laneway has not given relevant consent.
- There is no evidence of appropriate bat surveys having been conducted in accordance with standard practice.
- The proposed demolition of the pre-1843 wall is contrary to Development Plan Heritage Policy BHA6. Dublin City Council has confirmed that the wall is to be added to the Record of Protected Structures.
- The applicant's stated precedents for similar developments are not comparable.
- The applicant has failed to deliver previous projects.
- There is inadequate access at the top of the lands for anything larger than a car.
- The submitted site traffic assessment was completed in the height of Covid in 2021 when traffic was a fraction of that in 2025.
- The proposed development would negatively alter the setting of the existing house: 'Kadiv'.

- The proposed development would result in increased noise and activity.
- There will be risk of structure or environmental impact during construction.

Vivian Kelly

Comments as per Paul Kelly's.

Jackie Frawley

The points raised in the Further Response from Jackie Frawley are the same as her Section 131 response.

## 9.0 **Assessment**

- 9.1. There are several versions of the proposed scheme: the proposed development submitted in the original application, the revised design submitted after a request for further information, the permitted scheme as per the DCC decision (i.e., including the amendments required under condition no. 6 and 7), and the amended design option submitted with the First-Party appeal.
- 9.2. The original application was for 63 apartments. As part of the further information submission the number of apartments was reduced to 59 units. The grant of permission reduced the number of apartments to 54 units. The amended design option submitted with the First Party Appeal is for 57 apartments. Unless otherwise stated, my assessment and any references hereafter to the 'proposed development/scheme' are based on the revised scheme submitted as further information, that being the scheme on which the DCC decision is based.
- 9.3. As stated above an 'amended design option' has been submitted with the first party appeal against conditions no. 6 & 7. The main aims of the amended proposal are to reduce the overall scale/massing of the proposal and to address communal open space provision. The surrounding properties (Kadiv and No's 1 and 2 Rydalmount) are active parties in this case and have had the opportunity to comment on the amended proposals both as response to the first part appeal submission and as part of a Section 131 submission after the case was remitted back to the Commission. I

am satisfied that adequate opportunity has been afforded for comment on the amended design and it can be considered as party of the appeal.

9.4. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, the report/s of the local authority, and having inspected the site, and having regard to the relevant local/regional/national policies and guidance, I consider that the substantive issues in this appeal to be considered are as follows:

- Legal Interest
- The Principle of Development
- BTR Tenure
- Density and Building Height
- Public Open Space
- Residential Amenity
- Condition no. 6 & Condition no. 7.
- Impact Architectural Heritage and Visual Amenity
- Traffic and Transportation
- Loss of Trees
- Flooding
- Social Infrastructure
- Other Matters
- Material Contravention.

Note:

The attention of the Commission is drawn to the fact that The Design Standards for Apartments, Guidelines for Planning Authorities (2025) have been recently published and replace the Sustainable Urban Housing: Design Standards for New Apartments (2020) and subsequent revisions. These are applicable to any application for planning permission and to any subsequent appeal or direct application to An



Commission Pleanála submitted after the issuing of the Guidelines, i.e., from 9th July 2025.

The Department Circular letter NSP 04/2022 states that:

*“The revocation of the ‘Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities’, 2023 (and all preceding updates) does not apply to current appeals or planning applications, i.e. that were subject to consideration within the planning system on or before the 8th of July 2025. These will be considered and decided in accordance with the ‘Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities’, 2023, or as set out below, where applicable.”*

I also note that the Circular Letter NRUP 07/2022, which was published with the amended Sustainable Urban Housing Design Standards for New Apartments, Guidelines for Planning Authorities (2023) provides for transitional arrangements for BTR schemes which are subject to consideration within the planning system on or before 21<sup>st</sup> December 2022 stating that they *‘will be considered and decided in accordance with the current version of the Apartment Guidelines, that include SPPRs 7 and 8.’* As the application was lodged to Dublin City Council on the 28<sup>th</sup> July 2022 and therefore falls within these transitional arrangements. The proposed development is therefore assessed under the provision of the 2020 Apartment Guidelines.

## **9.5. Legal Interest**

- 9.5.1. The appellant has questioned the applicant’s legal right to use the access laneway for the proposed apartment development. A letter has been submitted from a solicitor acting on behalf of the applicant which states that the applicant has benefit of an unrestricted right of way over the access laneway. The letter states that Bernadette Kelly is the owner of the laneway, and the right of way is restricted to the user to access to one dwelling only.
- 9.5.2. The appellant argues that the development could not proceed without the necessary legal authorisation for use of the access road and therefore the application is invalid.

- 9.5.3. The applicant has submitted a solicitor's letter stating that the applicant benefits from a right of way over the laneway providing access to Milltown Road. The applicant claims that the proposed development does not infringe upon the established rights of way, and no works are proposed for the laneway or on lands outside of the red line boundary.
- 9.5.4. The applicant claims that the private roadway is unregistered, and the ownership of the roadway has not been definitively established and considers that the right of way is sufficient to allow for lawful access to the property for the purposes of carrying out the proposed development.
- 9.5.5. Article 22(2)(g) states that where the applicant for permission is not the legal owner of the land or structure concerned, the application shall be accompanied by the written consent of the owner to make the application. The application does not include the laneway as part of the site. I therefore consider that written consent of the owner of the laneway is not required for the purpose of the planning application.
- 9.5.6. The application site includes lands in the ownership of Dublin City Council and a letter of consent from the Council has been included in the application.
- 9.5.7. I recognise that there are conflicting understandings of the claimed restrictions on the right of way, however in terms legal interest, I am satisfied that the applicants have provided sufficient evidence of their legal intent to make an application. Any further legal dispute is considered a Civil matter and are outside the scope of the planning appeal. In any case, this is a matter to be resolved between the parties, having regard to the provisions of s.34(13) of the 2000 Planning and Development Act.

#### **9.6. The Principle of Development.**

- 9.6.1. The proposed development includes the demolition of the existing contemporary dwelling on site and the construction of an BTR apartment development.

#### Zoning

- 9.6.2. The site is Zoned Z1 – Sustainable Residential Neighbourhoods. The landuse zoning objective for Z1 zoning is *'To protect, provide and improve residential amenity'*. The development plan states that *'In order to achieve a sustainable tenure mix in neighbourhoods, the Build to Rent residential typology is predominantly in the open*

*for consideration category*'. I therefore consider that the principle the proposed development is broadly acceptable on this site. Please refer to Section 9.7 of this report below, which discussed the proposed development in context of Section 15.10 of the CDP and assessed the suitability of BTR development on this site.

#### Demolition

- 9.6.3. The existing structures to be demolished comprise a contemporary two-storey residential dwelling and outbuildings on site, with a total combined gross floor area of 395sqm. These buildings are domestic and are of no heritage value. None of the structures are included within in Record of Protected Structures or the National Inventory of Architectural Heritage. The site is not included in an Architectural Conservation Area.
- 9.6.4. With regard to the demolition of the building on site I note it is development plan policy CA6 to *'To promote and support the retrofitting and reuse of existing buildings rather than their demolition and reconstruction, where possible.'* The policy refers to Section 15.7.1 Re-use of Existing Buildings in Chapter 15 Development Standards.
- 9.6.5. Section 15.7.1 requires that where demolition is proposed, the applicant must submit a demolition justification report to set out the rational for the demolition having regard to the 'embodied carbon' of existing structures and demonstrate that all options other than demolition, such as refurbishment, extension or retrofitting are not possible.
- 9.6.6. I recognise that a demolition justification was not submitted and note that the application was lodged prior to the adoption of the current development plan and that the PA did not request such a justification report at FI stage. I also note that a Climate Action, Energy & Sustainability Report, and a Construction Management Plan and Demolition Method Statement has been submitted with the application. Waste generated from the demolition is to be removed in accordance with a submitted Construction and Demolition Waste Management Plan. I recognise that the issue of embodied carbon has not been specifically addressed. Having regard to the, assessment and conclusion of the planning authority and having considered all of the submitted documentation I consider that the justification for demolition has been adequately addressed in the submitted application.
- 9.6.7. Section 15.7.1. does not require a specific form of detailing or analysis to satisfy the exercise of having regard to the embodied carbon of existing structures, rather

consideration of same in the context of the overall substantive case for demolition. In this case it is determined that the provisions of Section 15.7.1 have been substantively achieved in the application and appeal exercises and that a grant of permission would not seriously prejudice these provisions and therefore that no material contravention arises

9.6.8. I consider that the demolition of the existing building can be balanced with the wider sustainability issues associated with the proposed development and the wider policy objectives including the development plan strategic principle (a) as contained in Section 1.2 of creating a more compact city with a network of sustainable neighbourhoods and Policy SC11.

9.6.9. I am satisfied that the existing buildings are not of significant scale, heritage or local character value, and I do not consider that their retention could be reasonably required as part of a comprehensive redevelopment of the site. I consider that demolition is justified in this case in light of the overarching needs to achieve higher-density, compact, sustainable development in accordance with the strategic outcome No.1 Compact Growth of the National Planning Framework (First Revision 2025) and having regard to Policy SC11. Accordingly, I have no objection in principle to the demolition of the existing buildings.

#### Conclusion

9.6.10. I consider that the principle of the proposed BTR residential development on this accessible location, including the demolition of the existing buildings on the site, acceptable within this zoning category, subject to the detailed considerations below.

### **9.7. Build To Rent Tenure**

9.7.1. The appellants have concerns relating to the proposed Build to Rent (BTR) tenure of the proposed development stating that there is a lack of apartments for sale and that Build to Rent development by their nature are transient and do not provide a sense of community.

9.7.2. Section 5.1 of the Apartment Guidelines 2020 set out that BTR types of housing developments have a potential role to play in providing choice and flexibility to people. They can provide a viable long term housing solution to households where

homeownership may not be a priority, such people starting out on their careers and who frequently move between countries in the pursuance of career and skills development in the modern knowledge-based economy. This principle is reflected in Section 15.10 *Build to Rent Residential Developments (BTR)* of the Development Plan which acknowledges that that BTR is considered to be an integral part in achieving an appropriate mix of housing.

9.7.3. The appellants consider that the proposed development is contrary to the principles of Section 15.10 of the Dublin City Development Plan.

9.7.4. It is stated in Development Plan Policy QHSN40 that the Council will facilitate the provision of Build to Rent (BTR) accommodation in the following specific locations:

- Within 500 metre walking distance of significant employment locations,
- Within 500 metres of major public transport interchanges (e.g., Connolly Station, Tara Street Station and Heuston Station), and
- Within identified Strategic Development Regenerations Areas.

9.7.5. Policy QHSN40 also states that there will be a presumption against the proliferation and over concentration of BTR development in any one area and recommends that applications for BTR developments should be accompanied by an assessment of other permitted and proposed BTR developments within a 1km radius of the site. This should demonstrate that there would not be an overconcentration of BTR units in the area and the how the development supports housing need with regard to tenure and unit size and accessibility.

9.7.6. It is the policy of the Council as stated in Policy QHSN41 to discourage BTR Accommodation schemes of less than 100 units due to the need to provide a critical mass of accommodation to provide a meaningful provision of communal facilities and services. The policy states that small accommodation schemes with less than 100 units will only be considered in exceptional circumstances and where a detailed justification is provided.

9.7.7. The proposed development consists of 59no. BTR units, as revised at FI stage, with resident support facilities, services and amenities.

9.7.8. As part of the Further Information submission the applicant submitted a Build to Rent Justification Report. The report states that while the subject site is not within 500

metre walking distance of significant employment locations or within 500 metres of major public transport interchanges or Strategic Development Regeneration Area, however, the site is still considered to be a suitable accessible location for BTR being adjacent to the Milltown Luas stop and bus services along the Milltown Road. While I acknowledge that the site is not 500m from a major employer, I do consider given the site is within the catchment areas of major public transport corridors, it is in a highly accessible location and in this regard the proposed BTR development is acceptable.

- 9.7.9. I note the wording of Development Plan Policy QHSN40 does not suggest a mandatory requirement for a BTR to be located within 500 metre walking distance of significant employment locations. I therefore do not consider that the proposed development materially contravenes the Development Plan with regard to Policy QHSN40.
- 9.7.10. The justification report has assessed the tenure of household within 1 km of the site and has established that there is prominence of owner-occupier houses (61%) when compared with apartments to rent. There is also a prominence of houses/bungalows in the area (71%). The report sets out that the greatest demand is for 1 & 2 person households and demonstrates that due to the changing demographic trends in Dublin and the rising cost of renting, that there is a demand for BTR accommodation as part of the overall tenure mix.
- 9.7.11. The BTR Justification Report establishes that there is only one BTR development of 97 no. units with a 1km radius of the site (ACP ref:313048). This still appears to be the case. I note that just outside the 1km radius a BTR development of 671no units is proposed on lands at Milltown Park, Sanford Road (ACP ref: 322160). A decision has yet to be reached on this Strategic Housing Development application. Given the limited number of BTR units within a 1km of the site, I do not consider that the proposed development will lead to a proliferation and concentration of BTR in the area. Given the dominance of owner occupier dwellings in the area I consider that the proposed development will add to the availability and range of housing tenure in the immediate area.
- 9.7.12. The proposed BTR development, as amended at Further Information stage includes resident amenities and support facilities with a total of 258.78 m<sup>2</sup>, including a large

item storage area, bicycle maintenance and bin store, a concierge/management and foyer area and a lounge/residential function room with terrace at fifth floor level. This equates to a stated 4.38m<sup>2</sup> per unit. I note that Section 15.10.1 Design Standards of the Development Plan gives a general recommended guideline of 3m<sup>2</sup> per person for resident services and amenities. The Apartment Guidelines 2020 do not provide for a quantitative standard for residential support facilities. Given the scale of the development, the design and type of resident amenities and support facilities proposed I consider that the future occupants of the BTR units will be adequately served for amenities and facilities.

- 9.7.13. I acknowledge that Policy QHSN41 states that smaller BTR developments of less than 100 units will only be considered in exceptional circumstance and where a detailed justification is provided. This is to ensure the provision of a critical mass of accommodation to provide a meaningful provision of communal facilities and services.
- 9.7.14. The applicant has submitted a Build to Rent Amenity Assessment Report prepared by Knight Frank. It highlights that while the proposed development would be considered small scale development, the level of proposed communal facilities which is higher than other BTR schemes. The report concludes that based on recent residential occupier survey, the proposed scheme and associated amenities is suitable for renter's requirements in the current market. I am satisfied with the conclusion of this report and consider that the level of communal facilities proposed and the existing amenities in the area will be acceptable for a small scale in-fill development on this site adjoining a high-capacity public transportation stop and neighbour low-density dwellings.
- 9.7.15. I consider the applicant's BTR Justification Report and the Build to Rent Amenity Assessment Report have adequately justified that there is a need for BTR units in this location with a high proportion of owner occupiers and houses in the area. Given the that given the level of communal facilities, the nature of the receiving environment and the close proximity to high-capacity public transport stop I consider that this is an exceptional circumstance. Therefore, a BTR development of this scale and unit number is acceptable on this site.

### Conclusion

- 9.7.16. I have considered the submitted reports. Given the satisfactory level and type of communal facilities and rational for Policy QHSN41, allied to the findings of the justification report and the Build to Rent Amenity Assessment Report, I do not consider that the development would materially contravene the policies and objects of the CDP.
- 9.7.17. Having regard to the accessibility of the site, its proximity to public transport, the limited number of existing BTR schemes and the prominence of owner-occupier accommodation in the area and the proposed communal facilities and services for the future occupants, I consider that the site to be a suitable location for a BTR scheme.

## 9.8. Density and Building Height

- 9.8.1. One of the main points of appeal relates to the height and density of the proposed development. The third parties consider that the density of the development is over twice the density range identified in the Dublin City Development Plan 2022-2028 (CDP) and that the height is greater than that permitted for the area in the CDP.
- 9.8.2. Policy SC10 of the CDP states that it is a policy of the council: *‘To ensure appropriate densities and the creation of sustainable communities in accordance with the principles set out in Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (Cities, Towns and Villages), (Department of Environment, Heritage and Local Government, 2009), and its companion document, Urban Design Manual: A Best Practice Guide and any amendment thereof.’* Policy SC11 states *‘In alignment with the Metropolitan Area Strategic Plan, to promote compact growth and sustainable densities through the consolidation and intensification of infill and brownfield lands, particularly on public transport corridors, which will:*
- *enhance the urban form and spatial structure of the city;*
  - *be appropriate to their context and respect the established character of the area;*
  - *include due consideration of the protection of surrounding communities and provide for enhanced amenities for existing and future residents;*



- *be supported by a full range of social and community infrastructure such as schools, shops and recreational areas;*
- *and have regard to the criteria set out in Chapter 15: Development Standards, including the criteria and standards for good neighbourhoods, quality urban design and excellence in architecture.*

9.8.3. With regard to densities, Section 15.5.5 of Chapter 15 states *‘Dublin City Council will support higher density development in appropriate urban locations in accordance with the NPF, RSES and the Section 28 Guidelines which seek to consolidate development within exiting urban areas. Higher density development allows land to be used more efficiently, assists in regeneration and minimises urban expansion. Higher densities maintain the vitality and viability of local services and provide for the critical mass for successful functionality of public transport facilities.’*

9.8.4. The section also states: *‘All proposals for higher densities must demonstrate how the proposal contributes to place-making and the identity of an area, as well as the provision of community facilities and/or social infrastructure to facilitate the creation of sustainable neighbourhoods. Refer to Appendix 3 for further details.’*

9.8.5. Appendix 3 *Achieving Sustainable Compact Growth Policy for Density and Building Height in the City* of the DCDP sets out guidance on how to achieve appropriate and sustainable compact growth in the city and on appropriate areas for increased density and hight.

9.8.6. Appendix 3 sets out, as a general rule, density ranges that will be supported in the city. These are detailed in the Table 1: Density Ranges:

9.8.7. Table 1: Density Ranges

Location	Net Density Ranges (units per ha)
City Centre and Canal Belt	100-250
SDRA	100-250
SDZ/LAP	As per SDZ Planning Scheme/LAP

Key Urban Village	60-150
Former Z6	100-150
Outer Suburbs	60-120

- 9.8.8. In order to assess if the proposed development complies with the density standards detailed in Table 1, it is necessary to classify the area where the proposed development site is located.
- 9.8.9. The appellants contend that the proposed development is in an area classified as 'Outer Suburbs', having particular regard to the glossary in the DCDP.
- 9.8.10. In the Dublin City Development Plan Glossary 'Outer City' is defined as *'Those areas generally between the 19<sup>th</sup> Century urban areas/villages and the city boundary.'* Inner suburbs are defined as *'Those areas beyond the inner city (see definition above) which comprise the 19<sup>th</sup> century built-up areas, including Drumcondra, north Phibsborough, Rathmines and Ballsbridge.'* There is no definition for 'Outer Suburbs' in the Development Plan Glossary.
- 9.8.11. The applicant maintains that the site is located within the area defined as the late 19<sup>th</sup> built up area of Dublin beyond the inner city as shown in Development Plan figure 11-1 (The evolution of Dublin) and therefore can be considered to be in the Inner Suburbs, not Outer Suburbs. I note that in Figure 11-1 the site is located in an area which is identified as being late 19<sup>th</sup> Century/Early 20<sup>th</sup> Century.
- 9.8.12. I note that Section 4.5.2 of the Development Plan states: *'The inner suburbs comprise the established suburban communities, largely, located outside of the canal belt e.g., such as Phibsborough and the outer city refers to the newly developing areas on the fringe of the city administrative area including Clongriffin-Belmayne, Ashtown-Pelletstown, Park West and Cherry Orchard.'* I note that the Inner Suburbs is not identified as a location in Table 1 Density Ranges.
- 9.8.13. I recognised that there are conflicting definitions of the 'Outer City' in the development plan and as stated above there is no definition in the Development Plan for 'Outer Suburb'. However, while the neighbouring dwellings of Rydalmount House and Rydalmount Villas are 19<sup>th</sup> Century structures, I consider the site is located in a suburban area which is some distance from the 19<sup>th</sup> Century key urban villages of

Rathmines, Ranelagh and Donnybrook and is adjacent to the Dublin City Council administrative area boundary. I therefore consider that in terms of the density ranges as detailed in Table 1; the site is in the outer suburbs. I note also that the CDP definitions refer only to the Dublin City Council administrative area and should be read and understood in this context. The location of the site on the southern periphery of this area therefore supports this conclusion.

- 9.8.14. The proposed development provides a net density of 260 units per hectare (as per FI response). This figure is greater than the general density range of 60-120 units per hectare as detailed in Table 1 for an 'Outer Suburb' location.
- 9.8.15. The density figure of 260 units per hectare is in excess of the general density ranges for the Outer Suburbs. A number of the appellants consider that the density would render the proposed development a material contravention of the Development Plan.
- 9.8.16. In section 3.2 of Appendix 3 the CDP acknowledges that *'schemes of increased density are often coupled with buildings of increased height and scale. Where a scheme proposes buildings and density that are significantly higher and denser than the prevailing context, the performance criteria set out in Table 3 shall apply.'* Therefore, a development which proposes a density higher than the general density range for the location may still be considered acceptable. I consider it appropriate to assess the proposed development against the performance criteria set out in table 3.
- 9.8.17. The site is located in an enclave of 5 dwellings (including the dwelling proposed to be demolished). The two of these dwellings are detached and on large plots. Two of the dwellings are three storey, semi-detached Georgian/early Victorian dwellings. The dwellings are currently accessed through a private laneway with private gate to the Milltown Road. Directly to the west of the site is the Green Luas Line and beyond that is Richmond Road and the 4 storey Richmond Court apartment development. The proposed development with a density of 260 units per hectare and a height ranging from four to seven storeys (Milltown Road elevation) would be higher and denser than the immediate prevailing context.
- 9.8.18. Appendix 3 states that: *'All proposals with significantly increased height and density over the existing prevailing context must demonstrate full compliance with the performance criteria set out in Table 3'*. Appendix 3 also notes that buildings of between 5 and 8 storeys, including family apartments and duplexes is promoted in

the key areas identified. Public Transport Corridors have been identified as an area for height intensification and higher densities.

- 9.8.19. Policy SC14 refers to the Building Height Guidelines (2018), policy SC15 supports an adequate mix of uses in proposals for larger scale developments, policy SC16 recognises the predominantly low rise character of the city whilst also recognising the potential and need for increased height in appropriate locations, and policy SC17 seeks to protect and enhance the skyline of the city and ensure that all proposals with enhanced scale and height have regard to identified criteria. Appendix 3 of the Plan sets out 'guidance on how to achieve appropriate and sustainable compact growth in the city and specifically, to ensure consistency with the Urban Development and Building Heights Guidelines for Planning Authorities (December 2018) and the SPPR's contained therein' (section 1.0), and sub-section 4.1 also states 'This section sets out a policy approach for the assessment of development of increased height, scale and density in the city that aligns with the Section 28 Guidelines'. Therefore, the appendix is based on the Building Height Guidelines (2018).
- 9.8.20. With regard to building heights, Appendix 3 states that for outside the canal ring that heights of 3 to 4 storey will be promoted as the minimum and greater height will be considered on a case-by-case basis having regard to the prevailing site context and character, physical and social infrastructure capacity, public transport capacity and compliance with all of the performance criteria set out on Table 3.
- 9.8.21. Appendix 3 recognises scope for height intensification and the provision of higher densities at designated public transport stations and within the catchment areas of major public transport corridors including the Luas. It states that higher densities will be promoted within 500 metres walking distance of a bus stop, or within 1km of a light rail stop or a rail station in the plan. The capacity of public transport will also be taken into consideration when assessing appropriate densities.
- 9.8.22. The proposed development is located c.165m from the Milltown Luas stop. The frequency of the Luas line is a tram every 4-6 minutes during rush hour and roughly every 10 minutes outside of these times. There are two bus stops within 120m of the subject site serving route no. 61 and no. 44. I note that the NTA PTAL data, which uses timetables for public transport for the AM peak period, determines that this location is characterised as having Medium-High levels of services. In the Traffic and

Transport Assessment the impact of the development on public transport services has been detailed. It is estimated, for a worst-case scenario, during the weekday AM peak hour, that the additional passengers from the proposed development would represent a 1.75% of the total capacity of the Luas and 0.2% of the total Dublin Bus capacity. I considered that these figures are not a significant increase in the current situation. I note that a series of upgrades have taken place on Green Line Luas which has increased the capacity of the trams. Further upgrades are also proposed as part of the Metrolink. Given the relatively small scale of the proposed development and the improvements carried out on the Green Line Luas and the BusConnects Corridor and future improvement to capacity proposed I am satisfied that there is adequate capacity in the public transport network to support the proposed development.

- 9.8.23. Table 2 of Appendix 3 lists Indicative Plot Ratio and Site Coverage for the city, with Outer Employment and Residential Area having an indicative plot ratio range of 1.0-2.5 and indicative site coverage of 45-60%. The proposed development as originally applied for has a plot ratio of 2.3 and a site coverage of 47% and therefore complies with the Development Plan standards in this regard.
- 9.8.24. The proposed development is on an elevated site, and the Milltown Road elevation of Block A comprises of 6 storeys over a car parking and entrance level. Due to the changing levels of the site the rear of block A is 6 Storeys. Block B to the rear of the site is four storeys. The Development Plan recognises that there is scope for height intensification at designated public transport stations and within the catchment areas of major public transport corridors such as the Luas.
- 9.8.25. Section 4 of the CDP identifies public transport corridors as suitable and appropriate for more intensive development. Section 4.1 of Appendix 3 sets out key criteria which all proposals for increased urban scale and height must demonstrate. I will assess the proposed development against these:
- *The potential contribution to the development of new homes, economic growth and regeneration in line with the compact urban growth principles set out in the NPF and Project Ireland 2040.*

The proposed development will contribute to compact growth and will add an additional new homes on a site in close proximity to high quality public transport. The

area has been identified in NTA PTAL analyses as having Medium - High levels of service.

- *Proximity to high quality public transport connectivity, including key public transport interchanges or nodes.*

The proposed development is located in close proximity to the Milltown Luas stop and is on a Bus Connects corridor and is therefore adjacent to high quality public transport connectivity.

- *Proximity to a range of employment, services and facilities.*

The proposed development is located near to a range of employment, included those at the business parks on Clonskeagh Road. There are a range of services in close proximity of the site on Milltown Road. Given the site proximity to high quality public transport, the range of employment, services and facilities of the city centre and Dundrum are easily accessible.

- *Provision of adequate social and community infrastructure.*

The site is in close proximity to a range of social and community infrastructure, including educational facilities, universities, childcare, churches and sport clubs, parks and activity.

- *The availability of good walking, cycling and public transport infrastructure.*

The site adjacent to good walking routes, such as the Dodder Trail, cycling lanes and as stated above well served with public transport.

- *Appropriate mix of uses, housing typologies and tenures.*

While the proposed development is for a Build to Rent Scheme and contains only apartments, within 1km of the site, 61% of dwellings are owner occupier and 71% are houses or bungalows. There is not an over concentration of BTR units in the area I consider that there is a demand for BTR accommodation as part of the overall tenure mix. The proposed housing mix and typology will also contribute to choice and variety in this area. (See section 9.6 of this report)

- *The provision of high quality public open space and public amenities.*

The proposed development site is located adjacent to the River Dodder, Windy Arbour Playground and open space Milltown Golf Club, Shanagarry Park and Dart

Park. The proposed area is very well served with high quality open space and public amenities.

- *The resilience of the location from a public access and egress perspective in the event of a major weather or emergency or other incidents.*

The proposed development is not in an area which will be specifically impacted by a major weather or emergency or other incidents, such as flooding. (see Section 9.14) of this report.

- *That the ecological and environmental sensitivities of the receiving environments have been adequately assessed and addressed.*

I consider that the ecological and environmental sensitivities of the receiving environments have been adequately assessed and addressed in the documents and report submitted with the application including Ecological Impact Assessment, AA and EIA screening reports.... (See Appendices attached to this report)

- *Appropriate design response that considers the characteristics of the site, any development constraints and prevailing character.*

While the proposed development represents a major intervention in the immediate area, I consider that, with the omission of Block B as required in condition No.6, an acceptable balance has been achieved between providing compact growth and the assimilation of the proposed development into the existing characterises of the site and the prevailing character of the area. (see assessment under Section 9.11 below)

- *Adequate infrastructural capacity.*

There is adequate infrastructural capacity to serve the proposed development.

#### Performance Criteria in Assessing Proposals for Enhanced Height, Density and Scale

9.8.26. Table 3 of Appendix 3 of the Development Plan sets out the performance criteria to be used in assessing urban schemes of enhanced density and scale. I will, therefore, assess the proposed development against these performance criteria. I will have regard to the statement of compliance submitted by the applicant and the grounds of appeal.

- *To promote development with a sense of place and character*

The appellants have raised serious concerns that the proposed development does not respect and complement the surrounding urban structure.

I consider that the design and height Block A of the proposed development will create a new urban edge which will establish its own sense of place and character along this section of the Milltown Road. Concern has been raised relating to the impact of Block B on the surrounding area. Given the density figure for the site which is in excess of the density range for Outer Suburbs contained in Table 1, I consider that Block B represents overdevelopment of the site and does not contribute to providing the development with a sense of place and character to the rear of the site which is appropriate for the area along the access laneway.

Concern has been raised relating scale and impact of the proposed development. Having regard to the submitted drawings, CGI and the Townscape Visual Assessment and given the surrounding context, with the existing large-scale structures in the immediate vicinity, Richmond Court, Nine Arch Bridge and the Laundry Stack, I do not consider that the proposed development to be monolithic.

The setting back of the upper floors and recommended omission of apartment No. A05.58, (see Section 9.11 of this report) will create a more balanced and appropriate architectural design and form of development for this elevated site.

While acknowledging that the proposed development will create a major urban intervention in the immediate area, I consider that, with the omission of Block B, the proposed development has achieved an adequate balance between providing adequate compact growth in close proximity to a transport interchange and protecting the character of the immediate residential area and the setting of the protect structures.

- *To provide appropriate legibility*

The proposed development directly faces onto the Milltown Road. While acknowledging the appellants' concerns relating to the height of the proposed development, the proposed development will create a defining urban edge to Milltown Road that will complement the existing residential development of Richmond Court, and the Nine Arch Bridge. With the omission of Apartment A5.58 proposed development will create a well-articulated elevation and a legible built form that that is appropriate for the Milltown Road, a key urban corridor, and the Luas



interchange. Block A creates a defined urban edge which is appropriate for the scale of the Milltown Road and open space associated with both sides of the River Dodder.

- *To provide appropriate continuity and enclosure of streets and space.*

While acknowledging the elevated nature of the site, the proposed development is of a scale which is appropriate to the width of the Milltown Road and open space associated with both sides of the River Dodder. The scale of development will create a strong urban edge which is reflective of a move to compact growth and continues the form of development initiated by the St Anne's development on the Milltown Road.

- *To provide well connected, high quality and active public and communal spaces.*

While the proposed development does not provide public open space, the area is very well served by public open space and amenity areas. Given the nature of the site and its immediate surroundings, public open space would be inappropriate and impractical. With the recommended removal of Block B, the proposed development will provide a high quality communal open space which will have a sense of enclosure yet receive adequate access to daylight. The proposed communal space will receive adequate passive surveillance from the residents of Block A.

- *To provide high quality, attractive and useable private spaces*

All of the proposed apartments will have a quantity of usable open space which will comply with the Apartment Guidelines. While concerns have been raised relating to the level of overlooking of the adjoining private open spaces, I consider that given the separation distance between the proposed development and the adjoining properties that there will not be significant overlooking of the private open spaces of the existing properties by the proposed apartments.

The balconies proposed apartments on the Milltown Road elevation will be southeast facing with expansive views and will be provided with a high level of amenity.

The omission of Block B as required by condition No.6 will provide an enclosed and accessible communal open area for the proposed occupants.

As part of further information submission, the applicant has submitted revised landscaping proposal which will allow for adequate privacy and sense of security for the private open space of the ground floor apartments.

- *To promote mix of use and diversity of activities*

The proposed development is for residential and associated use only. Given the scale of the development, the restricted nature of the site and its immediate residential surrounding and the residential zoning of the site, it is considered that a mix use and diversity of activities would not be suitable on this site. The surrounding area contains adequate social and community infrastructure.

While the proposed development is for a Build to Rent Scheme and contains only apartments, the majority of dwellings in the area are owner occupier and houses or bungalows. There is not an over concentration of BTR units in the area and I consider that there is a demand for BTR accommodation as part of the overall tenure mix. (See section 8.6 of this report)

- *To ensure high quality and environmentally sustainable buildings*

Having regard to the submitted Daylight and Sunlight Assessment, I am satisfied that the proposed development will have adequate natural daylight. The appellants have raised concerns relating to the lower-level apartment receiving inadequate sunlight. As detailed in Section 9.10 of this report I consider that these south facing apartments will receive adequate daylight.

Section 9.10 of this report also assesses the impact of the proposed development in terms of the potential for overshadowing of adjoining buildings and their private amenity space and concluded that the impact will not be significant.

The proposed development allows for reconfiguration of internal spaces if required for different needs or uses. Therefore, the proposed development can adapt to changing household needs or changes in tenure.

The proposed plant at roof level is set back from the parapet level and is located in a screened enclosure and will therefore be discreet and unobtrusive.

With the recommend omission of the proposed Block B, 39% of the apartments will be dual aspect units (21no. out of 54no. units). This is in compliance with the Apartment Guidelines 2022 which requires a minimum of 33% of dual aspect units

will be required in accessible urban locations and will increase passive solar gain and ventilation. Section 15.9.3 of the CDP encourages all development to meet or exceed 50% dual aspect units unless specific site characteristics dictate that a lower percentage may be appropriate. There are significant changes in level from the Milltown Road to the upper level of the site. To facilitate an appropriate scale of streetscape along Milltown Road, single aspect apartments are proposed on the lower levels thus reducing the overall level of dual aspect apartments. I therefore consider that due to the specific site characteristics that the proposed quantity of dual aspect apartments is acceptable and therefore that no material contravention arises.

As outlined in the submitted OMP Design Statement the selected materials will contribute to the character of the scheme and the sustainability and resilience of the development. I recommend a condition be attached agreeing the details of the finishes and material to be used.

It is proposed to use green roofs, PV solar panels, high performance insulation a building fabric designed to meet NZEB standards. Sustainable Urban Drainage Systems are integrated into the design of the development. I consider that adequate sustainable technologies are to be used to contribute to the energy efficiency and climate resilience of the proposed development.

The site is located in Flood Zone C. The submitted Site Specific Flood Risk Assessment concluded that the risk of fluvial and tidal flooding is deemed to be within acceptable limits and mitigation measures are not required. (See section 8.14 of this report)

While the proposed development includes the demolition of an existing property it is considered that an acceptable balance has been reached between the release of embodied carbon and the provision of 54no. apartments on a highly accessible urban site.

- *To secure sustainable density, intensity at locations of high accessibility*

The proposed development site is located c.165m from the Milltown Luas stop. The frequency of the Luas line is a tram every 4-6 minutes during rush hour and roughly every 10 minutes outside of these times. There are two bus stops within 120m of the subject site. The site is on a bus connects route. The main access point to the

development and its car parking is directly off the Milltown Road. I consider that the proposed development to be at a location of higher accessibility well served by public transport with high-capacity, medium to high level of service with good links to other modes of public transport.

- *To protect historic environments from insensitive development*

The proposed development is adjacent to the Nine Arch Bridge which is a protected structure and on the opposite side of the Milltown Road is the Laundry Stack, both of which are included in Dublin City Council's Record of Protected Structures. While the proposed development will create impact on the existing townscape quality of the area and on the setting of the protected structures, the proposed quality of design, materials to be used and landscaping of the proposed development will ensure that the development is in harmony and will not negatively impact on the character or setting of the protected structures. (See Section 9.11 of this report)

- *To ensure appropriate management and maintenance*

An Operation Management Report has been submitted with the application which sets out a management strategy for the scheme, post construction. The scheme address matters of access control, management of open space and landscaping, waste management and maintenance. I considered that, if implemented, the management strategy will provide for adequate and appropriate management and maintenance of the proposed BTR development.

#### Compact Settlement Guidelines

9.8.27. Policy SC10 of the DCDP 2022-2028 states that it is the policy of DCC 'To ensure appropriate densities and the creation of sustainable communities in accordance with the principles set out in Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (Cities, Towns and Villages), (Department of Environment, Heritage and Local Government, 2009), and its companion document, Urban Design Manual: A Best Practice Guide and any amendment thereof'. The 2024 Guidelines have replaced the Sustainable Residential Development Guidelines (2009).

9.8.28. Section 3.3 of the Guidelines outlines settlements, area types, and density ranges. Table 3.1 (Areas and Density Ranges Dublin and Cork City and Suburbs) is relevant.

As set out previously in the context of density and the CDP, the subject site is an outer suburb area with a general density range of 60-120dph. Notwithstanding this I, consider that the appropriate density category for the site in the context of the Compact Settlement Guidelines (2024) is the 'City – Urban Neighbourhood' category.

9.8.29. 'City – Urban Neighbourhoods' are defined as follows.

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

9.8.30. The proposed development site is within the Milltown area which is a medium density residential neighbourhood which has evolved overtime to include a greater range of land uses. The site is therefore aligned with different density categories depending on which document is being considered. Having regard to the assessment of the proposed development against the Performance Criteria in Assessing Proposals for Enhanced Height, Density and Scale, Table 3 of Appendix 3, the recommended omission of Block B will result in a density of 238dph which is within the Compact Settlement Guidelines density range of range 50 dph to 250 dph for city urban neighbourhoods. I therefore, considered that the density of the proposed development with the omission of Block B is in accordance with the provisions of the Compact Settlement Guidelines.

#### Conclusion

9.8.31. I accept that the proposed density of 260dph (238 dph – 54 units after the recommended omission of Block B and apartment A5.58.) is above the stated density range for Outer Suburbs as contained in Table 1: Density Ranges of the CDP. The appellants consider that the proposed density exceeds the density range

as contained in Table 1 to such an extent that that the proposed development would materially contravene the development plan.

9.8.32. I note that one of the appellants claim that there is no basis for interpreting that the Table 3 Appendix 3 criteria provides a justification for exceeding the density ranges set out in Table 1. I would disagree with this interpretation. The proposed density ranges as contained in Table 1 are not hard limits and the CDP is clear in stating that higher densities than the general density range for the location may still be considered acceptable subject to a demonstration of key criteria and subject to detailed performance criteria for enhance height, density and scale as set out in Table 3.

9.8.33. Having assessed the proposed development against both the key criteria and the detailed performance criteria, as contained in Appendix 3, I consider that the height and density of the proposed development, with the omission of Block B is acceptable. The proposed development will contribute to the creation of a compact city where the use of urban land is optimised and will introduction a type and tenure of units that are required in the area at a scale and design that will adequately integrate with the surrounding area and will, therefore not be seriously harmful to the residential amenity of the surrounding properties. I therefore consider that the proposed development is in compliance with Appendix 3 and does not represent a material contravention of the objectives of the Dublin City Development Plan 2022-2028.

## **9.9. Public Open Space**

9.9.1. One of the appellants raised concerns relating to the Local Authority's decision to accept a contribution in lieu of public open space, especially at the time of decision that the Dublin City Development Plan 2022-2028 was only recently adopted.

9.9.2. In response the applicant states that the total communal open space of 510m<sup>2</sup> exceeds the minimum open space required under the apartment guidelines 2020 and Development Plan standards. They also state due to the informal nature of the subject site; it is not possible to provide an area of public open space serving the wider area.

- 9.9.3. Development Plan Policy G128 requires that in new residential developments, public open space is provided which is sufficient in amenity, quantity and distribution to meet the requirements of the projected population. Section 15.8.6 of the Development Plan requires 10% of the overall site area to be allocated as public open space. However, Section 15.8.7 states that in some instances it may be more appropriate to seek a financial contribution towards its provision elsewhere in the vicinity. This would include cases where it is not feasible, due to site constraints or factors, to locate the open space on site, or where it is considered that, 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.
- 9.9.4. The proposed development is accessed from and facing onto the Milltown Road. An additional entrance to the rear of the site is accessed by a private laneway serving a number of private residential properties. The site is bounded to the west by the Luas line boundary. There is a significant change in level from the Milltown Road to the proposed open space to the rear of the site. Therefore, given the restricted nature of the site and lack of possible permeability through the site, I do not consider the site to be suitable or of practical value for such public open space.
- 9.9.5. This site is located near public amenity spaces such as the River Dodder, Shanagarry Park, Darty Park and Windy Arbour playground which provides adequate areas of public and accessible open space for future residents.

#### Conclusion

- 9.9.6. Having regard to the nature of the site and the close proximity of both active and passive areas of public open space, I consider it acceptable that public open space is not provided on the site and recommend that if the Coimisiún is minded to grant permission that a separate condition is attached requiring a financial contribution to be paid towards open space provision or upgrading of open space in the vicinity as provided for under Policy G126 of the CDP.

### 9.10. **Residential Amenity**

#### Residential Amenity of Neighbouring Properties

- 9.10.1. The grounds of appeal include the negative impact the proposed development will have on the Kavid and on No.1 and 2 Rydalmount. Concerns have been raised that due to its proximity and scale of the proposed development there will negative impact on the Kavid and on No.1 and 2 Rydalmount due to overlooking, overshadowing and overbearance.

The applicant contends that the proposed development as revised at Further Information stage addresses issues of overlooking as a variety design tools have been used to ameliorate potential impact on residential amenity. These include a reduced building bulk and massing of Block A, elevational design measures, window screens, increased setbacks and additional landscaping.

#### Overlooking

- 9.10.2. The appeal from the residents of 1 & 2 Rydalmount, Kadiv and Ryalmount House states that Block A and B will result in overlooking from living spaces into No.1 Rydalmount and will diminish their privacy and residential amenity. There is also concern relating to the loss of trees on the northern boundary.
- 9.10.3. The four storey Block B as revised as further information stage is located 6m from the site boundary with an overall distance of 20.6m to the front elevations of No.1 and No.2 Rydalmount. The rear of Block B does not directly face directly the front elevations of No.1 and No.2. Rydalmount. The elevation of Block B facing No.1 and No.2 Rydalmount contains bedroom windows and a full height dining area window. It is proposed to retain the Yew and Cypress trees to the rear boundary with No.1 and No.2 Rydalmount. There are no terraces on the northern elevation of Block B and therefore significant overlooking of No.1 and No.2 Rydalmount from terraces will not occur.
- 9.10.4. SPPR 1 of the Compact Settlement Guidelines states that there shall be no specified minimum separation distances between opposing window to the front of housing. Section 15.9.7 of the CDP states that traditionally a minimum distance of 22m is required between opposing first floor windows and allows for reduced separation distance depending on the orientation and location in built up areas. Given orientation of Block B on the site, the separation distance between Block B and the front of No.1 and No.2 Rydalmount, I do not consider that Block B would create significant negative impact on the residential amenity of No.1 and No.2 Rydalmount



due to overlooking and in this regard the proposed development would comply with SPPR 1 and the CDP.

- 9.10.5. Concern has also been raised by the occupants of Kadiv, that the proposed development will overlook their dwelling and their amenity open space which is to the front of their dwelling. Block A is located 4.4m from the site boundary and 27.5m to 33.9m from the front elevation of Kadiv which is located to the northeast of the site. The top two floors are set back from the elevation facing Kavid. There are no windows on side elevation of Block A facing Kadiv on the first, second and third floors. There are windows on the fourth and fifth floors, however the fourth floor is set back an additional c.6.5m from the side elevation facing Kadiv and the fifth floor is set back an additional 5.23m. An appellant has concerns that the terraces on the fourth and fifth floors will create overlooking of their property: Kadiv. It can be seen from the Fourth Floor Plan (Dwg. No. 21002-OMP-AB-04-DR-A\_1002) and Fifth Floor Plan (Dwg. No. 21002-OMP-AB-05-DR-A\_1003) that the setback areas are non-accessible green roofs with access only for maintenance. I do not consider that there will be undue overlooking of the Kadiv property from the proposed flat roof areas. Concern has been raised that the terrace on the fifth floor serving the residents amenity area would create overlooking of Kadiv. This proposed terrace is facing southeast and is over 35m from the front façade of Kavid. I consider that given its orientation and the distance between the fifth-floor terrace and the front elevation of Kavid to ensure that there will not be significant overlooking of Kadiv.
- 9.10.6. I consider that a degree of overlooking is acceptable in an urban area such as the site. Given the set back of the upper floors, the distance of proposed Block A from the front elevation of Kadiv and the elevational treatment of Block B that the proposed development will not result in significant overlooking of both the dwelling and open space of Kadiv.
- 9.10.7. As discussed in Section 8.10 of this report I do not consider that the proposed apartment A05.58 will cause undue overlooking of the Kadiv and therefore do not consider it should be removed by condition.
- 9.10.8. I consider that the proposed development will not cause a significant negative impact on the residential impact of No.1 and No.2 Rydalmount and Kadiv due to overlooking.

### Overshadowing

9.10.9. Concerns have been raised by the appellants that the proposed development will be harmful to the residential amenity of No.1 and No.2 Rydalmount and Kadiv due to overshadowing of their amenity spaces. It is stated that the properties do not contain substantive areas of rear private open space and are reliant on side and front gardens. While this is the case for Kadiv, it would appear on the site location map that the No.1 and No.2 Rydalmount have rear gardens of over 18m long.

9.10.10. An update to the Sunlight, Daylight & Shadow Assessment was submitted at further information stage. The assessment analysed two areas of amenity space, the area to the front of Kadiv and to the front of 'Rydalmount House'. Both of these areas pass the BRE 2-hour of sunlight on the 21st of March or 0.8 ratio. Therefore, for these amenity spaces the proposed development complies with the requirements of the BRE guidelines for impact on amenity. I note that this does not imply that shadows will not be cast over an amenity space at all, but it implies that satisfactory levels of residential amenity will be maintained.

9.10.11. I note that the area in front of No.1 and No.2 Rydalmount was not assessed or the amenity area to the side of No.1. Given the scale of the side garden of No.1 and the fact that both No.1 and No.2 Rydalmount have amenity space to the rear of the properties, I am satisfied that the proposed development will not cause undue overshadowing of these properties front and side amenity areas and that adequate levels of residential amenity will be maintained. If the Coimisiun is minded to omit Block B in its entirety as recommended in Section 8.10 any potential overshadowing would be significant reduced.

9.10.12. Having regard to the above I consider that that the proposed development complies with the BRE guidelines in relation to overshadowing of the neighbouring amenity spaces and will not cause a significant negative impact on the residential amenity of the neighbouring properties due to overshadowing.

### Overbearance

9.10.13. Concerns have been raised regarding the proposed development appearing overbearing when viewed from the adjoining properties and its negative impact on the residential amenity of said properties. I recognise that the proposed development will represent a significant intervention to this area. As said above the side elevation

of Block A is located 27.5m to 33.9m from Kadiv with the upper two floors being set back. The access laneway is between the proposed development and the Kadiv boundary. I note the CGIs submitted at Further Information stage, especially View CG-003 which is the view taken from the entrance to Kadiv, I note that in the landscaping planting plan (Dwg. no.7352-L-1001) the northeastern boundary with the access lane is to be planted with 5m+ trees. Given the distances between the proposed development and Kavid, the existing and proposed landscaping I do not consider that the proposed development will appear overbearing when viewed from Kadiv.

- 9.10.14. As stated above the four storey Block B is approximately 20.6 from the front elevation of No.1 and No.2 Rydalmount. The submitted CGI View CG-001 shows proposed Block B when viewed from the steps No.1 and No.2 Rydalmount. The existing trees along the site boundary with No.1 and No.2 Rydalmount are to be retained. The proposal is a major intervention and change from the current situation. Notwithstanding the retention of the trees I would agree with the appellants and consider that the proposed Block B would appear overbearing when viewed from No.1 and No.2 Rydalmount. If the Coimisiun is minded to omit Block B in its entirety as recommended in Section 9.8 & 9.11 any concerns of overbearance would be eliminated.

#### Conclusion

- 9.10.15. Having regard to the design and positioning of the proposed development on the site, I consider that there are adequate separation distances between the proposed development and the neighbouring properties to ensure that the proposed development will not result in a seriously negative impact on the neighbouring properties due to overlooking and overshadowing. I do consider however that Block B will appear overbearing when viewed from No.1 and No.2 Rydalmount. If the Coimisiún is minded to omit Block B in its entirety the potential impact of the proposed development will be further reduced.
- 9.10.16. Subject to the omission of Block B I consider that the proposed development has created an acceptable balance between providing compact growth in a highly accessible location and protection of the existing residential amenity of the area.

### Proposed Lower Ground Floor Units.

9.10.17. One of the appellants has raised a concern that the proposed apartments at the lower level of Block A will not receive adequate sunlight and daylight. There are six apartments on the lower ground floor level. The existing retaining boundary wall to the site along the access laneway is to be dismantled and rebuilt on the same alignment. The retaining wall will have a height of 600mm above the ground level on the site boundary with a new painted metal railing to height of 1.1m on top of the wall. Apartments A.LG.02, 03, 04, 05 and 06 are single aspect and south facing. The windows of these apartments will not be blocked by the proposed site boundary wall. It can be seen from the Site elevation 02 on drawing no. 21002-OMP-AB-ZZ-DR-A-2001, submitted as further information that only the windows of apartment A.LG.01 will be marginally blocked by the boundary wall and the embankment to east. This unit is double aspect.

9.10.18. The updated Sunlight, Daylight & Shadow Assessment (impact Neighbours & Development) submitted as further information shows that the Average Daylight Factor for the bedrooms and living rooms of the apartments on the ground floor meet the minimum standards contained in the BRE 209 guidance document. All of the living rooms of the lower ground floor apartments also meets the minimum BRE 209 standards for Sunlight (Annual Potable Sunlight Hours). I am satisfied with the content of the report and therefore consider the lower-level apartments will have adequate access to sunlight and day light and in this regard adequate residential amenity.

### **9.11. First Part Appeal: Condition No. 6 and Condition no.7**

#### Condition No.6

9.11.1. The grant of permission included condition No. 6 which requires the omission of Block B from the scheme in its entirety along with the connecting walkway and the submission of a revised landscaping scheme which incorporates these lands into the area of communal open space allowing for a single 100sqm designated play area. The Planning Authority rationale for the removal of Block B was to improve the amenity value of the communal open space.

- 9.11.2. In their appeal the applicant states that the scheme as revised at further information stage provides an appropriate quality and quantum of communal open space with ancillary play areas. It is stated that the open space accords with the recommendation Apartment Guidelines 2020/2022 and is considered to be wholly appropriate for the small scale of this BTR development. I note that one of the appellants considers that even after the revised design submitted at further information stage that the proposed development is devoid of quality open space.
- 9.11.3. Section 15.9.8 of the DCDP refers to minimum areas for communal amenity space in Appendix 1 of the Apartment Guidelines. The total quantum of communal open space for the proposed development is a stated 510m<sup>2</sup>. This is in excess of the minimum areas contained in the guidelines. The open space is made up of 405m<sup>2</sup> of communal open space at ground level and an additional 105m<sup>2</sup> of terrace on the fifth floor.
- 9.11.4. At the appeal stage the applicants submitted a revised design for Block B. The link bridge and walkways have been removed, and Block B is now two storeys and contains, 2no. 2 storey dwellings with 6.4sqm balconies. This has allowed for an increased play area. However, these units are dwellings, not apartments and do not provide private gardens and only provide 6.4sqm of private open space in the form of a balcony. These units do not comply with CDP Section 15.11.3 Private Open Space which requires a minimum standard of 10sqm per bedspace. For the proposed units the minimum requirement is 30sqm. I do not, therefore, consider that the revised Block B is acceptable and appropriate for this site and for the proposed development.
- 9.11.5. While I accept that the communal open area has increased, given the positioning of Block B, I consider that sections of the communal open space surrounding Block B are not high landscape quality and consist of buffers areas around Block B.
- 9.11.6. Having regard to the conclusion reached after an assessment in Section 9.8 of the development against the performance criteria for enhanced height and density, I consider that Block B should be omitted in its entirety to allow for reduced density, improved quality of open space and a better relationship with No.1 and No.2 Rydalmont. The omission of Block B will allow for a more acceptable density and site layout that will complement the existing and established surrounding urban structure,

character and local context. Therefore, if the Coimisiún is minded to grant permission I recommend that Condition No.6 in its entirety should be attached to a grant of permission.

#### Condition No.7

- 9.11.7. The applicants contends that there would be minimal/if any material planning benefits arising from the omission of Apartment A5.58 which is required under Condition No.7. Apartment A5.58 is a two-bedroom unit located on the fifth floor.
- 9.11.8. The planning authority considered that in order to further deal with overall scale of the development, the removal of this apartment from Block A would allow for a further step down towards the neighbouring property at Kadiv and will also reduce the visual impact of the block to the street.
- 9.11.9. While I consider that Apartment A5.58 will not cause any overlooking of the adjoining properties and having regard to the CGI images No.2 & 3, I consider that the visual impact of the proposed development will be reduced when viewed from Rydalmount House and Kadiv. I also consider that the removal of apartment A5.58 will reduce the overall scale of the building when viewed from the Milltown Road and Patrick Doyle Road and will create an overall more balanced form and design to Block A.
- 9.11.10. I therefore consider that if the Coimisiún is minded to grant permission I recommend a condition be attached requiring the omission of apartment A5.58.

### **9.12. Impact Architectural Heritage and Visual Amenity**

#### Boundary Wall

- 9.12.1. One of the appellants claim that the proposed removal of the boundary wall to the from the south of the site is contrary to Development Plan Policy BHA6. This policy states that there will be a presumption against the demolition or substantial loss of any building or other structure on historic up to an including the Ordnance Survey of Dublin City, 1847. The proposed wall is not included in the Record of Protected Structures or on the NIHA. It appears this wall or a previous wall in this location was on historic maps. The development proposes to build a lower wall, c.39m, with railings in the same location along the access lane using the salvaged stone material from the existing wall. As the wall is not protected, the site is not in ACA and a new

lower wall proposed to be rebuilt using the salvaged material in the same location, I am satisfied that the proposed development will not result in the substantial loss of historic fabric and in this regard is therefore acceptable.

#### Setting of the Protected Structures.

- 9.12.2. There are no protected structures on the site, there are however two protected structures in close proximity of the site, Laundry Stack (RPS No.5253) and the Nine Arch Bridge (RPS No.886).
- 9.12.3. The appellants consider that the proposed development will negatively impact on the character and setting of the protected structures. It is stated that the proposed development will overpower the setting and architectural heritage character of the Nine Arch Bridge and The Laundry Stack. It is also claimed that the photomontages do not fully illustrate the impact on the protected structures.
- 9.12.4. In response the applicant has submitted a response to the appeal by Park Hood which is claims that the proposal will not adversely impact on the setting of the protected structures.
- 9.12.5. A Townscape and Visual Impact Assessment (TVIA) was submitted with the application. It concluded that the proposed development will be a major change from the existing situation but will not be incongruous in terms or mass and scale when measured against that of existing apartments lying within short-range views. An assessment of the impact of the proposed development has been undertaken for a series of viewpoints. This assessment is accompanied by CGI images.
- 9.12.6. Viewpoint 1 is taken from the Milltown Road east looking towards the Nive Arches Viaduct. The TVIA states concludes that this location the level of townscape and visual level of effect will be negligible during summer months and slight during the winter months. I would concur this assessment and consider that the proposed development will not have a significant negative impact on the Nine Arch Viaduct (protected structure) from this viewpoint.
- 9.12.7. Viewpoint 2 is taken from the Milltown Road west looking towards the Nine Arches viaduct. Here the upper floor of the proposed development will be partially visible from above the existing trees on Milltown Road. The TVIA concludes that the level of effect would be slight adverse in the summer and winter months. Having regard to

this assessment and associated CGI I consider that the proposed development will not have a significant negative impact on the Nine Arches Viaduct.

9.12.8. Viewpoint 3 is taken from under the viaduct facing east. The proposed development will be a significant change in the character of the area. The proposed development will be prominent on Milltown Road when passing under the viaduct. The TVIA concludes that the level of effect would be moderate adverse. I recognise that the proposed development will be a significant intervention to the immediate setting of the Nine Arch Bridge, however the submitted Architectural Design Statement argues that the development will deliver additional scale and enclosure to Milltown Road. Having regard to this and the four storey and six storey apartment buildings in the vicinity of the site, I consider that the proposed development will not have a significant negative impact on the architectural character of the Nine Arches Bridge.

9.12.9. Viewpoint 6 is a long-range viewpoint taken from Partick Doyle Road which is south of the River Dodder. The top two floors of the proposed Block A will be visible over the existing trees in Shanagarry Park and on the Milltown Road. This view includes the Nine Arches Bridge and the Laundry Stack. The TVIA concludes that there will be a slight adverse effect as the proposed development will form a readily apparent component within the overall view, but the baselines conditions will continue to prevail. I consider this conclusion to be acceptable. Having viewed the site and observed the existing setting of both the Nine Arches Bridge and the Laundry Stack from this highly visible location, I consider that, subject to the omission of Apartment A5.58 as recommended in Section 9.11, the proposed development will not have a significant negative impact on the setting and the architectural character of the both the Nine Arches Viaduct and the Laundry Stack.

9.12.10. Protected Structures Policy SC22 of the Dublin City Development Plan 2022-2028 seeks to “facilitate new development which is in harmony with the city’s historical spaces and structures, and the proper planning and sustainable development of the area”. Having regard to the commanding scale of the Nine Arches Bridge and the Laundry Stack, as stated above I consider that the proposed development will not have a significant negative effect on the setting of these structures. I consider that the contemporary design will be clearly legible from and in contrast to the Protected Structures. The Laundry Stack is located in Shanagarry



Park on the opposite side of the Milltown Road and is a standalone structure. I do not consider that the setting will be negatively altered by the proposed development.

### Conclusion

- 9.12.11. While the proposed development will be a significant intervention on the existing townscape and on the setting of the Nine Arches Bridge and Laundry Stack, the proposed quality of design, materials to be used and setting of the proposed development will ensure that the development is in harmony with the settling of the protected structures. I consider that the proposed development will not have a significant negative impact on the setting and the architectural character of the both the Nine Arches Bridge and the Laundry Stack.

## **9.13. Traffic and Transportation**

### Car Parking and Public Transport Capacity

- 9.13.1. The third-party appeals raise concerns in respect of increased traffic at Rydalmount and that additional traffic generated will be a hazard for pedestrians, cyclists and other road users. It is argued that no meaningful justification has been provided for the lack of car parking which will give rise to overflow car parking in the surrounding area with the potential to result in a traffic hazard and impeded access to surrounding properties.
- 9.13.2. As the site is adjacent to the Luas, a key transport corridor, Appendix 5 Transport and Mobility: Technical Requirements of the Development Plan establishes that the site is located in Parking Zone 2. Appendix 5 Table 2: *Maximum Car Parking Standards for Various Land Uses* establishes a maximum requirement of 1 car parking space per dwellings in Zone 2 for Houses/Apartment/Duplexes. Therefore for 59 no. units there is a maximum requirement for 59 no. car parking spaces (reduced to 54 by conditions no. 6 & 7).
- 9.13.3. Section 4.0 of Appendix 5, goes on to state that a relaxation of maximum car parking standards will be considered in Zone 1 and Zone 2 for any site located within a highly accessible location. Applicants must set out a clear case, satisfactorily demonstrating a reduction of parking need for the development based on a number of criteria.
- 9.13.4. The basement level (Block A) contains 10 no. car parking spaces, 1 no. motorcycle spaces, 6 no. e-scooter spaces, 98 no. cycle spaces (including 2 no. cargo spaces).

A further surface two car parking spaces are proposed to the north of the site.

- 9.13.5. The Residential Travel plan submitted with the application set outs that the allocation of shared car parking spaces will reduce car parking demand on site as the shared car parking space may accommodate the equivalent trips as 14 private cars reducing the car parking demand by approx. 52 spaces. The management of the shared cars will be monitored by the Residential Travel Plan co-ordinator, Management Company and measures to include their usage will be undertaken.
- 9.13.6. The appellants have raised concerns relating to the capacity of public transport and the fact that the first party did not take into consideration other proposed development in the area.
- 9.13.7. As stated previously, the submitted Traffic and Transport Assessment estimates, for a worst-case scenario, during the weekday AM peak hour, that the additional passengers from the proposed development would represent a 1.75% of the total capacity of the Luas and 0.2% of the total capacity. I considered that these figures are not significant, and having regard to NTA PTAL data which determines that this location is characterised as having Medium-High levels of services, I am satisfied that there is adequate capacity in the public transport network to support the proposed development.
- 9.13.8. It should be noted that SPPR 3 of the Sustainable Residential Development and Compact Settlement Guidelines requires that city centres and urban neighbourhoods of the five cities, which are defined in Chapter 3 (Table 3.1 and Table 3.2) car-parking provision should be minimised, substantially reduced or wholly eliminated. The maximum rate of car parking provision for residential development at these locations, where such provision is justified, shall be 1 no. space per dwelling.
- 9.13.9. Having regards to Table 3.1, I consider that the proposed development site is located in an area which can be classed as an Urban Neighbourhood as it is within 1,000 metres (1km) walking distance of an existing high-capacity urban public transport node or interchange, namely the Milltown Luas Stop and within 500 metres walking distance of a planned BusConnects 'Core Bus Corridor' stop.
- 9.13.10. I note that in the submitted Residential Travel Plan includes a series of objectives to encourage changes in travel behaviour and to encourage car free development. I consider that the applicant has satisfactorily demonstrated where a reduction of

parking need for the development would be appropriate. I consider that given the proposed measures contained in the RTP and the nature of the access road and the Milltown Road that there will be limited opportunity for overspill parking. Given the highly accessible location of the development in close proximity to high frequency public transport, cycling and pedestrian facilities and with the 4 shared car parking spaces and the additional car parking spaces, I consider the proposed development provides adequate car parking and is in accordance with the criteria included in Section 4.0 of Appendix 5 of the CDP and with SPPR 3 of the Sustainable Residential Development and Compact Settlement Guidelines.

### Pedestrian and Cycling

9.13.11. The appellants have raised concerns that the proposed development will not be adequately served by pedestrian and cycling facilities.

9.13.12. I note a public footpath and cycle path front the site along Milltown Road connecting the site directly with Milltown Luas Stop and adjacent Bus Stops (Route no. 44 and Route no. 66 within a 5-minute walking distance from the site) and wider local services and amenities. A pinch point has been identified at the existing abutment of the Nine Arches Bridge; however, this is over a short distance only and still provides pedestrian access.

9.13.13. Pedestrian and cycle access to the site is proposed via the primary development access and the southern end of the development site adjacent to the Milltown Road via the length of the access laneway. Access to the development via the lane to the northern part of the site is for two no. car parking spaces and for occasional deliveries and servicing only. I note the site is currently accessed via this laneway and that the additional car traffic utilising the laneway will not be significant increase. I therefore considered traffic from the proposed development will not have a significant negative effect on pedestrians or cyclist using the existing laneway.

9.13.14. A point of appeal raised concerns relating to the site location on a blind bend. It is proposed to construct a signalised junction arrangement. I note that the PA's Transportation Division have no objection in principle to the proposed signalised junction subject to a condition agreeing detailed design. I consider that this will ensure safe access to the laneway and the development for traffic pedestrians and cyclists

travelling to and from the development in a controlled manner. The proposed pedestrian crossing will also improve pedestrian facilities for the occupants for the existing residential properties in the immediate area.

- 9.13.15. I consider that the proposed development will be well served and benefits from the wider pedestrian and cycle facilities which are established at front the site on Milltown Road and that the proposed development will not have a significant negative impact on the pedestrian or cyclist safety on the existing laneway.

#### Swept Path /Fire Safety

- 9.13.16. The appellants have raised concerns that the swept path analysis of the laneway is not accurate, and the proposed development will not be adequately serviced. Concerns were also raised that there is no consideration of waste services for Block B. A Servicing and Delivery Access Strategy was submitted at Further Information stage. It is proposed that the bin stores for both Block A and B are in the basement, and a waste collection point is proposed to be provided adjacent to the development vehicular basement entrance. This will allow for waste to be staged internally within the proposed development. The proposed set down area to the north of the site is not intended for use of refuse vehicle.
- 9.13.17. In a submitted letter from Fire Safety Engineers, it is stated that the design of the proposed development as submitted as further information has an external dry riser inlet for fire brigade access and the Fire Brigade would access the dry riser from the Milltown Road. Therefore, fire brigade vehicles would not have to access to enter the northern section of the site.
- 9.13.18. In response to the appeals the applicant has submitted a swept path analysis Dwg. No. W036-CSC-XX-XX-SK-C-005 demonstrating how larger vehicles (fire truck) can access the northern portion of the site through the existing laneway. This would be required to serve the revised block B which is submitted with the first party appeal. The units proposed in Block B would be classed from a Part B perspective would as dwelling units and would require fire brigade access along the existing laneway.
- 9.13.19. The swept path analysis drawing highlights the difficulty accessing the site due the narrow width of the laneway and its geometry; however, the drawing does demonstrate

that access can be achieved within the constraints of the existing laneway. Should the Commission be minded to omit Block B from the development in accordance with the recommendation of this report, there would be no requirement for fire brigade access along the laneway and there would be limited need for large vehicles to access the northern portion of the site via the lane.

9.13.20. The development site will also be subject to a separate and independent fire safety certificate.

#### Construction Traffic

9.13.21. The appellants have raised concerns relating to the impact of construction traffic on the existing residents using the access lane. A Construction Environmental Management Plan (CEMP) has been submitted with the planning application. It states that for the duration of the works that all deliveries will access the site from the Milltown Road. In the response to the appeal the applicant has confirmed that it is not proposed to utilise the existing laneway for construction vehicles and access to the laneway will be maintained for residents during the construction period. The CEMP details a series of mitigation measures to address potential issues of noise, vibration and dust. Subject to the mitigation of the measure outlined in the CEMP I am satisfied that the method of construction has been adequately considered, that construction impacts can be adequately managed and will not be seriously harmful to the residential amenity of the area. If the Commission is minded to grant permission, I recommend that a condition be attached requiring a revised CEMP and ensuring that the laneway is not used for the purposes of construction.

#### Conclusion

9.13.22. It is considered that the proposed development is located at a well-served urban location. The site is within walking distance of high frequency transport Luas and Dublin Bus services. The area is well served with good cycle and pedestrian facilities. I consider that adequate provision has been made for car users, delivery and service vehicles and the proposed development will not create undue traffic pressure on the immediate area including the existing access laneway.

#### 9.14. Loss of Trees

- 9.14.1. Concern has been raised by the appellants relating to the quantity of trees to be removed from the site to facilitate the proposed development. An appellant states that the proposed removal of trees is not consistent with development plan policies GI40, GI41, GI42 and GI043.
- 9.14.2. Policy G140 requires: *'appropriate and long-term tree and native hedgerow planting in the planning of new development, urban spaces, streets, roads and infrastructure projects. New development should seek to provide for additional tree planting using a diversity of species including native species as appropriate to the location of the development in the interests of natural heritage, amenity, environmental quality and climate resilience.* The proposed development is providing additional native tree planting and shrub planting. I consider that the proposed tree and shrub planting as shown in Dwg.No:7352-L-1001 will add to the biodiversity of the area and the amenity quality of the development. I, therefore, consider that the proposed development will comply with Policy G140.
- 9.14.3. I consider of particular relevance is policy G141 which is *'to protect existing trees as part of new development, particularly those that are of visual, biodiversity or amenity quality and significance. There will be a presumption in favour of retaining and safeguarding trees that make a valuable contribution to the environment.'*
- 9.14.4. I note that from the Arboricultural Assessment submitted with the planning application that 20 no. trees are to be removed, 7 of which are category 'B' and 13 category 'C'. Category 'B' trees are of moderate value with a minimum of 20 years life expectancy and category 'C' trees are of low value with a minimum of 10 years of life expectancy. The majority of the trees to be removed are along the southern boundary. It is stated that the loss of tree vegetation is to be mitigated against with the planting of 24no trees in addition to shrubs and hedging as part of the overall landscaping scheme. The revised design submitted at further information stage allowed for greater planting along the northeastern boundary.
- 9.14.5. I note that in the submitted Townscape and Visual Impact Assessment (TVIA) the overall landscape value of the site is considered to be low/medium. It does recognise that the landscape quality/condition is medium due to the boundary treatments which contribute to the green corridors and to a green enclosure along Milltown Road. I

consider that the approach taken and the conclusion of the TVIA are acceptable. While I recognised that trees to be removed are part of an existing green corridor, they are not of a high amenity value, and their loss would not have a significant impact on the value of the green corridor along Milltown Road. I therefore consider that the trees to be removed are not of a significant visual, biodiversity or amenity quality. I therefore, consider that the proposed development will comply with Policy G140.

9.14.6. Policy G142 provides for the Council to adopt ‘a pro-active and systematic good practice approach to tree management with the aim of promoting good tree health, condition, diversity, public amenity and a balanced age-profile and as per Dublin City Tree Strategy 2016.’ I recognised that the proposed development will result in the loss of some trees however, as discussed above, I consider that the correct balance has been achieved between providing compact growth on this site, the adequate provision of proposed tree planting and quantity of tree retention on site I do not therefore consider that the proposed development will prevent an proactive approach to tree management and nor is it contrary to Policy G142.

9.14.7. Policy G1043 provides for the Council to support the preparation of an Urban Tree Canopy Plan for the City Centre Area and Inner City in the lifetime of this plan. To increase the tree canopy cover to a minimum of 10% in all areas with an emphasis in increasing the tree canopy cover in areas where there is a deficit, and a minimum of 5% each year in the city centre (a minimum of 5% per year over 6 years = a minimum of 30% over the life time of the plan). Again, I consider that the correct balance has been achieved between providing compact growth on this site, the adequate provision of proposed tree planting and quantity of tree retention on site. I therefore consider that the proposed development is not contrary to Policy G1043

#### Conclusion

9.14.8. The loss of existing trees is regrettable; however, I consider that the loss in part and in time will be mitigated by the proposed landscaping scheme. Given the nature of the site and the sense of enclosure to Milltown Road that will be provided by block A, I consider an acceptable balance will be achieved between providing compact growth and the protection of the existing natural heritage on site. I therefore consider

that the proposed development to be acceptable in this regard and in compliance with development plan policies GI40, GI41, GI42 and GI043.

### 9.15. Flooding

- 9.15.1. One of the points of appeal relates to the increase in surface water run-off as a result of the development and the potential to cause flash flooding downstream and that condition no.20 of the DCC notification is not adequate to address these concerns.
- 9.15.2. The application for the proposed development included a Site-Specific Flood Risk Assessment (SSFR). The SSFR highlights that the proposed development is in an area designated a Flood Zone C which is an area of low probability of flooding. In terms of flood risk residential development is seen as being 'highly vulnerable development'. In the 'Flood Risk Management Guidelines' highly vulnerable development is seen as appropriate in Flood Zone C. The SSFR concluded that the risk of fluvial and tidal flooding is deemed to be within acceptable limits and mitigation measures are not required. The SSFR also states that the subject site is located in a zone classified as low flood hazard in the pluvial floor maps produced as part of the '*Flood Resilient City Project*'.
- 9.15.3. It is proposed to collect stormwater within the proposed development in 150mm diameter pipes and flow under gravity through a new connection to an existing manhole located on the Milltown Road. A proposed attenuation tank and a flow control device is proposed to be employed to restrict storm water discharge rates from the development. It is also proposed to incorporate SuDS including green roofs, permeable surfacing and low water usage appliances. I consider that these measures will restrict the flow of storm water on the site and will create undue loading or pressure on the existing infrastructure. I also consider the measures will ensure that any potential flooding due to surface water run-off will not be significant.
- 9.15.4. Condition no. 20(i) relates to drainage requirements and stipulates the implementation of SUD's measures. These measures are standard practice and consistent with the Greater Dublin Regional Code of Practice for Drainage Works Version 6.0. Condition no. 20 (ii) requested that the flood risks from the 30 year, and 100-year storms are addressed. These were carried out under the submitted SFRA, and the applicant have indicated that these will be updated to reflect the final



permitted scheme. The remaining requirements to be addressed in condition are standard practice for a development of this type. I am satisfied that compliance with condition no.20, or similar, will be in the interest of the proper planning and sustainable development of the site and that the proposed development will not lead to a significant risk of flooding in the area. I recommend that a condition be attached requiring drainage arrangements including the updates to the Site Specific Flood Risk Assessment, attenuation and disposal of surface water to comply with the requirements of the planning authority.

#### **9.16. Social Infrastructure**

- 9.16.1. The appellants have raised concerns relating to the lack of social infrastructure in the area especially schools and childcare with available spaces and doctor availability. The site is located within an established suburban area with existing community facilities and services. A Social and Community Infrastructure Audit/Assessment was submitted with the planning application. Discounting studio and one bed apartments as allowed for in the Apartment Guidelines 2020 it is estimated that the proposed development would generate an additional childcare provision in the area of 8no spaces. This is assuming that all children would be catered for in a creche/Montessori/playgroup/after school facility. Given the highly accessible nature of the development site, I consider that the wider area can accommodate the estimated increased in childcare requirement arising from the proposed development.
- 9.16.2. Given the proposed mix of units, the assessment estimates that there will be a demand for 4no. primary school places. There are three primary schools in close proximity to the site. Using figures from the Department of Education the report estimates that the proposed development will create an additional demand for primary school spaces of 0.27% of the total provision of primary school places. I consider that the approach taken, the analysis and conclusion are reasonable. I consider that this does not represent a significant increase and will not result in undue pressure on the existing primary schools in the area.
- 9.16.3. There 5no post primary school is the area including Alexandra College which is adjacent to the proposed development site. Again, using figures from the

Department of Education the report estimates that the proposed development will create an additional demand for post primary school spaces of .0.13% of the total provision of school places. I do not consider that the proposed development will result in undue pressure on the existing post-primary schools in the area.

- 9.16.4. While there maybe not be a medical practice currently operating in Milltown, given the highly accessible nature of the site I consider that the site is well served with medical facilities.

#### Conclusion

- 9.16.5. Having regard to the education facilities in close proximity of the site, the limited scale of the development and the highly accessible nature of the site, I consider that the proposed development will be adequately served with social infrastructure.

#### **9.17. Other Matters**

##### Impact on Property Value

- 9.17.1. I note the concerns raised in the grounds of appeal in respect of the devaluation of neighbouring property. However, having regard to the assessment and conclusion set out above, I am satisfied that the proposed development would not seriously injure the amenities of the area to such an extent that would adversely affect the value of property in the vicinity.

##### Archaeology

- 9.17.2. I note that part of the application site which includes the Milltown Road is included in a Zone of Archaeological Interest. An archaeological assessment of the site has been included with the application. I note that the PA Archaeological Report comments that the site is located partially in an area known for industrial archaeology. While the report acknowledges that the previous development of the site may have impact on archaeological features it recommends that Archaeological test trenching would serve to assess the nature and extent of any surviving archaeological deposits at the pre-development stage, prior to the commencement of the groundworks contract. An Archaeological Assessment by way of test trenching will allow for a more detailed impact assessment of the proposed development on any such archaeological deposits/features. I consider that given the proximity of a

Zone of Archaeological Interest I consider that a condition requiring pre-groundworks Archaeological test trenching to be required.

#### Suitability of Developer

- 9.17.3. One of the appellant's has questioned the capacity of the applicant to develop the site and makes reference to a media article relating to another site. The appellant has not supplied evidence relating to a real and substantial risk that the development in respect of which permission is sought would not be completed in accordance with such permission if granted or with a condition attached to such permission. I therefore considered that Article 35 of the Planning and Development Act 2000 (as amended) is not relevant to this appeal. I consider that the capacity of the applicant to develop the site is also not relevant to this appeal.

#### Site Notice

- 9.17.4. One appellant has raised a concern regarding the validity of the site notice. They state that the public notices stated that the site is located to the east of Kadiv when in fact the site is to the west of Kadiv. The applicant recognises the error. I note that the public notices were considered acceptable by the planning authority. Notwithstanding this error, I am satisfied that this did not prevent the concerned party from making representations. The above assessment represents my de novo consideration of all planning issues material to the proposed development.

### **9.18. Material Contravention**

- 9.18.1. As stated above of the appellants claim that there is no basis for interpreting that the Table 3 Appendix 3 criteria provides a justification for exceeding the density ranges set out in Table 1 and the density of the proposed development would result in a Material Contravention of the CDP.
- 9.18.2. As stated in section 9.8 of this report, the proposed density ranges as contained in Table 1 of the CDP are not hard limits and the CDP is clear in stating that higher densities than the general density range for the location may still be considered acceptable subject to a demonstration of key criteria and subject to detailed performance criteria for enhance height, density and scale as set out in Table 3.

9.18.3. Having assessed the proposed development against both the key criteria and the detailed performance criteria I consider that the height and density of the proposed development, with the omission of Block B is acceptable. The proposed development will contribute to the creation of a compact city where the use of urban land is optimised and will introduce a type and tenure of units that are required in the area at a scale and design that will adequately integrate with the surrounding area and will, therefore not be seriously harmful to the residential amenity of the surrounding properties. I therefore consider that the proposed development is in compliance with Appendix 3 and does not represent a material contravention of the objectives of the Dublin City Development Plan 2022-2028.

## 10.0 AA Screening

10.1. In accordance with section 177U(4) of the Planning and Development Act 2000, as amended (2000 Act), and on the basis of objective information, I conclude that the proposed development (project) 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 (see Appendix 1 of this report below).

10.2. This conclusion is based on:

- Objective information presented in the Appropriate Assessment Screening report and the EclA.
- Qualifying interests and conservation objectives of the European sites.
- Absence of any meaningful pathways to any European site.
- Distances from European sites.
- Standard pollution controls and project design features that would be employed regardless of proximity to a European site and the effectiveness of same.

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

## 11.0 Water Framework Directive

- 11.1. I have assessed the proposed development (project) with regard to, and have considered the objectives as set out in, Article 4 of the Water Framework Directive (WFD). Article 4 seeks to protect and, where necessary, restore surface and ground water waterbodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration.
- 11.2. I conclude that the proposed development will not result in a risk of deterioration to any waterbody (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively or on a temporary or permanent basis or otherwise jeopardise any waterbody in reaching its WFD objectives. Consequently, I conclude that the proposed development can be excluded from further assessment (see Appendix 4 of this report below).
- 11.3. This conclusion is based on:
- Nature of the project, site and receiving environment.
  - Objective information presented in the case documentation (e.g., SSFRA, Engineering Assessment Report).
  - Absence of any meaningful pathways to any waterbody.
  - Standard pollution controls and project design features.

## 12.0 Recommendation

Following from the above assessment, I recommend that permission is GRANTED for the development as proposed due to the following reasons and considerations, and subject to the conditions set out below.

## 13.0 Reasons and Considerations

Having regard to:

- The site's location on lands zoned 'Z1' where Build to Rent residential development is 'open for consideration';
- The policies and objectives in the Dublin City Development Plan 2022-2028

- Nature, scale and design of the proposed development;
- Pattern of existing development in the area;
- Housing for All – A New Housing Plan for Ireland, 2021
- The National Planning Framework – First Revision, issued by the Department of Housing, Planning and Local Government in February 2025;
- The Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2013;
- Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of the Environment, Community and Local Government in December 2020;
- The Urban Development and Building Heights Guidelines for Planning Authorities 2018; and
- Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities 2024.
- To the observations and contents of the appeals received.

Subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would be acceptable in terms of urban design, height and quantum of development and would be acceptable in terms of traffic and pedestrian safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 14.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application on the 28th July 2022 as amended by further information submitted on 22nd December 2022 and by further plans and particulars submitted to An Coimisiun Pleanála on 23rd February 2023, except as may otherwise be required in order to comply with

the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development, or as otherwise stipulated by conditions hereunder, and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement the matter(s) in dispute shall be referred to An Coimisiun Pleanála for determination.

Reason: In the interest of clarity

2. The proposed development shall be amended as follows:

- This permission relates to a total of 54 no. units only.
- Apartment Unit A05.58 shall be omitted from the proposed fifth Floor of Block A.
- Block B shall be omitted from the scheme in its entirety and a revised landscaping scheme which incorporates these lands into the communal open space shall be submitted for the written agreement of the Planning Authority prior to commencement of development. In default of agreement the matter(s) in dispute shall be referred to An Coimisiun Pleanála for determination.

Reason: In the interest of the proper planning and sustainable development of the area and in the interest of clarity.

3. An accurate revised tree survey of the site, allowing for the amendments required in Condition no.2 , which shall be carried out by an arborist or landscape architect, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The survey shall show the location of each tree on the site, together with the species, height, girth, crown spread and condition of each tree, distinguishing between those which it is proposed to be felled and those which it is proposed to be retained.

(b) Measures for the protection of those trees which it is proposed to be

retained shall be submitted to, and agreed in writing with, the planning authority before any trees are felled.

Reason: To facilitate the identification and subsequent protection of trees to be retained on the site, in the interest of visual amenity.

4. The development hereby permitted shall be for build to rent units which shall operate in accordance with the definition of Build-to-Rent developments as set out in the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (December 2020) and be used for long term rentals only. No portion of this development shall be used for short-term lettings.

Reason: In the interest of the proper planning and sustainable development of the area and in the interest of clarity.

5. Prior to the commencement of development, the owner shall submit, for the written consent of the planning authority, details of a proposed covenant or legal agreement which confirms that the development hereby permitted shall remain owned and operated by an institutional entity for a minimum period of not less than 15 years and where no individual residential units shall be sold separately for that period. The period of 15 years shall be from the date of occupation of the first residential unit within the scheme. This covenant or legal agreement shall also highlight the reduced level of car parking available to future residents.

Reason: In the interests of proper planning and sustainable development of the area.

6. Prior to expiration of the 15-year period referred to in the covenant, the owner shall submit for the written agreement of the planning authority, ownership details and management structures proposed for the continued operation of the entire development as a Build-to-Rent scheme. Any proposed amendment



or deviation from the Build-to-Rent model as authorised in this permission shall be subject to a separate planning application.

Reason: In the interests of orderly development and clarity.

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

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

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

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

9. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development/installation of lighting. Such lighting shall be provided prior to the making available for occupation of any apartments. The lighting scheme shall form an integral part of landscaping of the site.

Reason: In the interests of public safety and amenity, to prevent light pollution.

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

Reason: In the interests of visual and residential amenity.

11. No additional development shall take place above roof level, including lift motors, air handling equipment, storage tanks, ducts, or other external plant other than those shown on the drawings hereby approved unless authorised by a prior grant of planning permission.

Reason: To safeguard the amenities of surrounding occupiers and the visual amenities of the area in general.

12. The construction of the development shall be managed in accordance with a finalised Construction Management Plan and Environmental Management Construction Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise and dust management measures, traffic management arrangements/ measures and off-site disposal of construction/demolition waste. The existing access lane shall not be used for construction.

Reason: In the interests of public safety.

13. Construction and demolition waste shall be managed in accordance with a construction and demolition waste management plan and construction

environmental management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The Construction Management Plan shall specifically address the points raised within the submission by TII to The Planning Authority. This plan shall be prepared in accordance with the 'Best Practice Guidelines for the preparation of resource & waste management plans for construction & demolition projects' published by the Environmental Protection Agency in 2021.

Reason: In the interest of sustainable waste management.

14. Drainage arrangements including the updates to the Site-Specific Flood Risk Assessment, attenuation and disposal of surface water, shall comply with the requirements of the planning authority.

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

15. Prior to the commencement of development, the developer shall enter into water and waste-water connection agreement(s) with Irish Water.

Reason: In the interest of public health.

16. 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 [within each house plot and/or for each apartment unit] shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the agreed waste facilities shall be maintained and waste shall be managed in accordance with the agreed plan.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

17. Prior to the commencement of any work on site, the developer:

- (i) Shall submit the final traffic signal infrastructure design drawings for the Milltown Road and the site access junction to the planning authority for written agreement. The signalisation shall be in accordance with DCC standards and to the specifications of DCC ITS. A Road Safety Audit shall be provided as part of the submission. The works shall be at the applicant/developer's expense.
- (ii) Shall submit to the planning authority for written agreement details of emergency vehicle access arrangements for the development.
- (iii) Shall ensure that car parking spaces shall be permanently allocated to the proposed use and shall not be sold, rented or otherwise sub-let or leased to other parties. Six no. spaces shall be allocated to car share. 50% of spaces shall be fitted with EV charging equipment and all remaining spaces shall be ducted to facilitated future installation of EV charging equipment.

Reason: In the interest of traffic safety and the proper planning and sustainable development of the area.

18. The developer shall liaise with Transport Infrastructure Ireland and appropriate agreements between TII, Luas Operator and the developer shall be undertaken and completed prior to the commencement of development regarding the construction and operation of the proposed development which is located in close proximity to a Luas Line.

Reason: in the interest of the proper planning and sustainable development of the area.

19. The developer shall engage a suitably qualified licence eligible archaeologist (licensed under the National Monuments Acts) to carry out pre-development archaeological testing in areas of proposed ground disturbance and to submit an archaeological impact assessment report for the written agreement of the planning authority, following consultation with the National Monuments

Service, in advance of any site preparation works or groundworks, including site investigation works/topsoil stripping/site clearance/dredging/underwater works and/or construction works. The report shall include an archaeological impact statement and mitigation strategy. Where archaeological material is shown to be present, avoidance, preservation in-situ, preservation by record [archaeological excavation] and/or monitoring may be required. Any further archaeological mitigation requirements specified by the planning authority, following consultation with the National Monuments Service, shall be complied with by the developer. No site preparation and/or construction works shall be carried out on site until the archaeologist's report has been submitted to and approval to proceed is agreed in writing with the planning authority. The planning authority and the National Monuments Service shall be furnished with a final archaeological report describing the results of any subsequent archaeological investigative works and/or monitoring following the completion of all archaeological work on site and the completion of any necessary post-excavation work. All resulting and associated archaeological costs shall be borne by the developer.

Reason: To ensure the continued preservation [either in situ or by record] of places, caves, sites, features or other objects of archaeological interest.

20. 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 transfer of a percentage of the land, to be agreed with the planning authority, in accordance with the requirements of section 94(4) and section 96(2) and 96(3)(a), (Part V) of the Planning and Development Act 2000, as amended, and/or the provision of housing on lands in accordance with the requirements of section 94(4) and section 96(2) and 96(3) (b), (Part V) of the Planning and Development Act 2000, as amended], unless an exemption certificate has been granted under section 97 of the Act, as amended. Where such an agreement cannot be reached between the parties, the matter in dispute (other than a matter to which section 96(7) applies) shall 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 for the area.

21. 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.

22. 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.

23. The developer shall pay to the planning authority a financial contribution of €5000 per unit as a contribution lieu of the public open space requirement in respect of public open space benefitting the development in the area of the planning authority is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the adopted 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 indexation provisions of the Scheme at the time of payment.

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

24. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company or such other security as may be accepted in writing by the planning authority, to secure the protection of the trees on site and to make good any damage caused during the construction period, coupled with an agreement empowering the planning authority to apply such security, or part thereof, to the satisfactory protection of any tree or trees on the site or the replacement of any such trees which die, are removed or become seriously damaged or diseased within a period of [three] years from the substantial completion of the development with others of similar size and species. 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 Coimisiun Pleanála for determination.

Reason: To secure the protection of trees on the site.

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.

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Peter Nelson  
Planning Inspector

7<sup>th</sup> November 2025



## Appendix 1 Form 1 - EIA Pre-Screening

<b>Case Reference</b>	322089-13
<b>Proposed Development Summary</b>	Demolition of the existing building (comprising the residential dwelling known as 'Dunelm') and structures on site and the construction of a Build-to-Rent (BTR) residential development, comprising 63 no. BTR apartments.
<b>Development Address</b>	'Dunelm', Rydalmount, Milltown Road, Dublin 6.
	<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>  (For the purposes of the Directive, "Project" means: - The execution of construction works or of other installations or schemes,  - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)	<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.  <b>EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.</b>	
<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	

development under Article 8 of the Roads Regulations, 1994.  <b>No Screening required.</b>	
<input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold.  <b>EIA is Mandatory. No Screening Required</b>	
<input checked="" type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold.  <b>Preliminary examination required. (Form 2)</b>  <b>OR</b>  <b>If Schedule 7A information submitted proceed to Q4. (Form 3 Required)</b>	<p>Schedule 5, Part 2, (10) (b) (i) Construction of more than 500 dwellings units.</p> <p>Schedule 5, Part 2, (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.</p> <p>Schedule 5, Part 2, (14) Works of Demolition Works of demolition carried out in order to facilitate a project listed in Part 1 or Part 2 of this Schedule where such works would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7.</p> <p>Schedule 5, Part 2, (15) Any project listed in this Part which does not exceed a quantity, area or other limit specified in this Part in respect of the relevant class of development but which would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7.</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>	
<b>Yes</b> <input checked="" type="checkbox"/>	<b>Screening Determination required (Complete Form 3)</b>
<b>No</b> <input type="checkbox"/>	

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

## Form 3 - EIA Screening Determination Sample Form

A. CASE DETAILS		
<b>An Bord Pleanála Case Reference</b>	<b>322089-25</b>	
<b>Development Summary</b>	Demolition of the existing building (comprising the residential dwelling known as 'Dunelm') and structures on site and the construction of a Build-to-Rent (BTR) residential development, comprising 63 no. BTR apartments on lands at 'Dunelm', Rydalmount, Milltown Road, Dublin 6.	
	<b>Yes / No / N/A</b>	<b>Comment (if relevant)</b>
<b>1. Was a Screening Determination carried out by the PA?</b>	<b>Yes</b>	<b>EIA Not Required</b>
<b>2. Has Schedule 7A information been submitted?</b>	<b>Yes</b>	
<b>3. Has an AA screening report or NIS been submitted?</b>	<b>Yes</b>	An Appropriate Assessment Screening Report was submitted with the application. No NIS was submitted. An Ecological Impact Assessment and Arboricultural Assessment were also submitted with the application.
<b>4. Is a IED/ IPC or Waste Licence (or review of licence) required from the EPA? If YES has the EPA commented on the need for an EIAR?</b>	<b>No</b>	

5. Have any other relevant assessments of the effects on the environment which have a significant bearing on the project been carried out pursuant to other relevant Directives – for example SEA	Yes	SEA and AA were undertaken in respect of the Dublin City Development Plan 2022-2028. A site-specific Flood Risk Assessment, Ecological Impact Assessment, Operational Waste Management Plan, Demolition Method Statement, Construction and Demolition Waste Management Plan and Construction Environmental Management Plan have been carried out.	
<b>B. EXAMINATION</b>	<b>Yes/ No/ Uncertain</b>	<b>Briefly describe the nature and extent and Mitigation Measures (where relevant)</b>  (having regard to the probability, magnitude (including population size affected), complexity, duration, frequency, intensity, and reversibility of impact)  <b>Mitigation measures</b> –Where relevant specify features or measures proposed by the applicant to avoid or prevent a significant effect.	<b>Is this likely to result in significant effects on the environment?</b>  <b>Yes/ No/ Uncertain</b>
<b>This screening examination should be read with, and in light of, the rest of the Inspector's Report attached herewith</b>			
<b>1. Characteristics of proposed development</b> (including demolition, construction, operation, or decommissioning)			
<b>1.1</b> Is the project significantly different in character or scale to the existing surrounding or environment?		While the proposed development is of a larger scale to the immediate surroundings it is consistent with the nature and scale of development wider local area including apartments to the west and south. The proposed development would provide for a new residential development at an outer	<b>No</b>

		urban location and is not regarded as being of a scale or character significantly different to the surrounding pattern of development.	
<b>1.2</b> Will construction, operation, decommissioning or demolition works cause physical changes to the locality (topography, land use, waterbodies)?		<p>The development will require the overall redevelopment of this site and creation of new access arrangements.</p> <p>The proposed demolition of the house and outbuilding on site is not considered to be significant and will not cause significant physicals changes to the locality.</p> <p>The proposed apartment development will not result in a change in land use, has been designed to address topography on the site and with the proposed replacement tree planting there will not be significant physical changes to the locality.</p> <p>Standard design and construction measures to address potential impacts on surface water and groundwaters in the location will ensure there will no significant impacts on the waterbodies in the area.</p>	<b>No</b>
<b>1.3</b> Will construction or operation of the project use natural resources such as land, soil, water, materials/minerals or energy, especially resources which are non-renewable or in short supply?		<p>Construction materials will be typical for an urban development of this nature and scale and will not use a significant use of natural resources.</p> <p>Due to its residential use the proposed development will not use a significant amount of natural resources or energy.</p>	<b>No</b>

		The proposed development will increase the use of the lands and contribute to compact growth of the city.	
<b>1.4</b> Will the project involve the use, storage, transport, handling or production of substance which would be harmful to human health or the environment?		Construction activities will require the use of potentially harmful materials, such as fuels and other such substances. Use of such materials would be typical for construction sites. Any impacts would be local and temporary in nature and the implementation of the standard construction practice measures outlined in the Outline CEMP, Outline CMP and Construction and Demolition Waste Management Plan (CDWMP) would satisfactorily mitigate potential impacts. No significant operational impacts in this regard are anticipated.	<b>No</b>
<b>1.5</b> Will the project produce solid waste, release pollutants or any hazardous / toxic / noxious substances?		Construction activities will require the use of potentially harmful materials, such as fuels and other similar substances and give rise to waste for disposal. The use of these materials would be typical for construction sites. Noise and dust emissions during construction are likely. Such construction impacts would be local and temporary in nature, and with the implementation of the standard measures outlined in the Construction Environmental Management Plan, Construction & Demolition Waste Management Plan, the project would satisfactorily mitigate the potential impacts. Operational waste would be managed	<b>No</b>

		through a waste management plan to obviate potential environmental impacts. Other operational impacts in this regard are not anticipated to be significant.	
<b>1.6</b> Will the project lead to risks of contamination of land or water from releases of pollutants onto the ground or into surface waters, groundwater, coastal waters or the sea?		<p>The construction works present a risk of pollution to water resources including particulate matter, fuel, suspended solids, lubricants and concrete. Such construction impacts would be local and temporary in nature, and with the implementation of the standard measures outlined in the Construction Environmental Management Plan, Construction &amp; Demolition Waste Management Plan, the project would satisfactorily mitigate the potential impacts.</p> <p>The proposed development will connect into the existing Uisce Eireann foul sewer network it is therefore significant operational impacts are not anticipated in this regard.</p>	<b>No</b>
<b>1.7</b> Will the project cause noise and vibration or release of light, heat, energy or electromagnetic radiation?		<p>It is not considered that noise disturbance from the proposed development be significant during the construction phase due to the urban nature of the immediate area which includes the Luas. Any disturbance will be temporary in nature. All works are limited to normal daytime working hours and development will comply with BS5228.</p> <p>Given the residential nature of the development significant operational impacts are not expected,</p>	<b>No</b>

<b>1.8</b> Will there be any risks to human health, for example due to water contamination or air pollution?		Construction activity is likely to give rise to dust emissions. Such construction impacts would be temporary and localised in nature and the application of standard measures within the Construction Environmental Management Plan would satisfactorily address potential risks on human health. No significant operational impacts are anticipated for the piped water supplies in the area.	<b>No</b>
<b>1.9</b> Will there be any risk of major accidents that could affect human health or the environment?		No significant risk is predicted having regard to the nature and scale of the development. Any risk arising from demolition and construction will be localised, not significant and temporary in nature. The site is not at risk of flooding.	<b>No</b>
<b>1.10</b> Will the project affect the social environment (population, employment)		Development of this site would result in an increase in population in this area. The development would provide housing that would serve towards meeting an anticipated demand in the area. Any resultant increased demand on social infrastructure is not considered significant.	<b>No</b>
<b>1.11</b> Is the project part of a wider large-scale change that could result in cumulative effects on the environment?		Given the nature of the proposed residential development in a built-up area it is considered that there are no means for the proposed development to act in-combination with any plans or projects, that would cause any likely significant negative effects on the surrounding environment.	<b>No</b>



## 2. Location of proposed development

<p><b>2.1</b> Is the proposed development located on, in, adjoining or have the potential to impact on any of the following:</p> <ul style="list-style-type: none"> <li>- European site (SAC/ SPA/ pSAC/ pSPA)</li> <li>- NHA/ pNHA</li> <li>- Designated Nature Reserve</li> <li>- Designated refuge for flora or fauna</li> <li>- Place, site or feature of ecological interest, the preservation/conservation/ protection of which is an objective of a development plan/ LAP/ draft plan or variation of a plan</li> </ul>		<p>The nearest European sites</p> <p>The nearest Natura 2000 site is South Dubin Bay Special Area of Conservation (Site Code: 00210) at a distance of 3.2km and North Dublin Bay Special Area of Conservation (Site Code: 000206) at a distance of c.7.3km. Protected habitats or habitat suitable for substantive habituating of the site by protected species were not found on site during ecological surveys. The proposed development would not result in significant impacts to any protected sites, including those downstream</p>	<p><b>No</b></p>
<p><b>2.2</b> Could any protected, important or sensitive species of flora or fauna which use areas on or around the site, for example: for breeding, nesting, foraging, resting, over-wintering, or migration, be affected by the project?</p>		<p>The proposed Ecological Impact Assessment concludes that the proposed development would not result in significant impacts on protected, important or sensitive species.</p>	<p><b>No</b></p>
<p><b>2.3</b> Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?</p>		<p>The southern part of the site is partially within the zone of archaeologically potential associated with a millrace that ruins into Darty Due Works (DU022-096). An Archaeological Assessment is included with the application. Any impact will be mitigated by pre development testing and Archaeological monitoring on site.</p>	<p><b>No</b></p>

		Adjoining Protected Structures, The Nine Arch Bridge and Laundry are outside the site. The impact of the development on the protected structures is not anticipated to be significant. Pre-groundwork test trenches are recommended by condition.	
<b>2.4</b> Are there any areas on/around the location which contain important, high quality or scarce resources which could be affected by the project, for example: forestry, agriculture, water/coastal, fisheries, minerals?		No such features are located in this outer-urban location, with the site separated from agricultural, coastal, forestry areas by intervening urban lands and road infrastructure. While some trees are to be removed to facilitate development, the amount is not significant and the value of the trees to be removed is not high.	<b>No</b>
<b>2.5</b> Are there any water resources including surface waters, for example: rivers, lakes/ponds, coastal or groundwaters which could be affected by the project, particularly in terms of their volume and flood risk?		The development will implement SUDS measures to control surface water run-off. The development would not increase risk of flooding to downstream areas with surface water to discharge at greenfield runoff rates.	<b>No</b>
<b>2.6</b> Is the location susceptible to subsidence, landslides or erosion?		No	<b>No</b>
<b>2.7</b> Are there any key transport routes(e.g. National primary Roads) on or around the location which are susceptible to congestion or which cause environmental problems, which could be affected by the project?		The site is served by the city road network. There are sustainable transport options available for future residents with the Luas line in close proximity. No significant contribution to traffic congestion is anticipated to arise from the proposed development.  No construction impacts on LUAS operations are anticipated.	<b>No</b>

<b>2.8</b> Are there existing sensitive land uses or community facilities (such as hospitals, schools etc) which could be affected by the project?		The site is in close proximity to a hospital and educational facilities. However, given the nature and scale of development and residential use there is no negative impact anticipated as a result of the proposal.	<b>No.</b>
<b>3. Any other factors that should be considered which could lead to environmental impacts</b>			
<b>3.1 Cumulative Effects:</b> Could this project together with existing and/or approved development result in cumulative effects during the construction/ operation phase?		No existing or permitted developments have been identified in the immediate vicinity that would give rise to significant cumulative environmental effects with the subject project.	<b>No</b>
<b>3.2 Transboundary Effects:</b> Is the project likely to lead to transboundary effects?		<b>No</b>	<b>No</b>
<b>3.3</b> Are there any other relevant considerations?		<b>No</b>	<b>No</b>
<b>C. CONCLUSION</b>			
<b>No real likelihood of significant effects on the environment.</b>	<input checked="checked" type="checkbox"/>	ElAR Not Required	
<b>Real likelihood of significant effects on the environment.</b>	<input type="checkbox"/>	ElAR Required	
<b>D. MAIN REASONS AND CONSIDERATIONS</b>			
<i><b>EG - ElAR <u>not</u> Required</b></i>			

Having regard to: -

1. the criteria set out in Schedule 7, in particular
  - (a) the limited nature and scale of the proposed housing development, in an established residential area served by public infrastructure
  - (b) the absence of any significant environmental sensitivity in the vicinity, and the location of the proposed development outside of the designated archaeological protection zone
  - (c) the location of the development outside of any sensitive location specified in article 109(4)(a) of the Planning and Development Regulations 2001 (as amended)
2. the results of other relevant assessments of the effects on the environment submitted by the applicant
3. the features and measures proposed by applicant envisaged to avoid or prevent what might otherwise have been significant effects on the environment.

The Coimisiún concluded that the proposed development would not be likely to have significant effects on the environment, and that an environmental impact assessment report is not required.

Inspector \_\_\_\_\_

Date \_\_\_\_\_

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

Date \_\_\_\_\_



## Appendix 2: Appropriate Assessment Screening

<b>Screening for Appropriate Assessment</b> <b>Test for likely significant effects</b>				
<b>Step 1: Description of the project and local site characteristics</b>				
<b>Brief description of project</b>	Demolition of structures, construction of Build to Rent apartments comprising of 63 apartments in 2 blocks with all associated site works. (See Section 3 for a detailed description of the proposed development.)			
<b>Brief description of development site characteristics and potential impact mechanisms</b>	The site is located east of the Luas Line, to the south of residential dwellings at No's 1 and 2 Rydalmount and east of the residential dwelling 'Kadiv' at Rydalmount, Milltown, Dublin 6. The 0.3147ha site contains an existing dwelling. The River Dodder is located c.42m south of the site. The nearest Natura 2000 site is South Dublin Bay Special Area of Conservation (Site Code: 00210) at a distance of 3.2km and North Dublin Bay Special Area of Conservation (Site Code: 000206) at a distance of c.7.3km.			
<b>Screening report</b>	Y			
<b>Natura Impact Statement</b>	N			
<b>Relevant submissions</b>	None			
<b>Step 2. Identification of relevant European sites using the Source-pathway-receptor model</b>				
European Site (code)	Qualifying interests <sup>1</sup> Link to conservation objectives (NPWS, date)	Distance from proposed development	Ecological connections <sup>2</sup>	Consider further in screening <sup>3</sup> Y/N
South Dublin Bay SAC (00210)	Mudflats and sandflats not covered by seawater at low tide [1140] Annual vegetation of drift lines [1210] Salicornia and other annuals colonising mud and sand [1310]	3.2 km	<b>Yes</b> The site is located west of this SAC. A weak hydrological pathway exists between this SAC and the site via (i) potential surface water discharges	<b>Yes</b>

	Embryonic shifting dunes [2110]		to the River Dodder (42m south of the site) which flows to the Liffey Estuary Lower and discharge to Dublin Bay, (ii) groundwater flows to the Dodder downgradient of the site, and (iii) the combined and foul water sewer system which passes through Ringsend WWTP and ultimately discharges to Dublin Bay.	
North Dublin Bay SAC (000206)	Mudflats and sandflats not covered by seawater at low tide [1140] Annual vegetation of drift lines [1210] Salicornia and other annuals colonising mud and sand [1310] Atlantic salt meadows (Glauco-Puccinellietalia maritima) [1330] Mediterranean salt meadows (Juncetalia maritimi) [1410] Embryonic shifting dunes [2110] Shifting dunes along the shoreline with Ammophila arenaria (white dunes) [2120] Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130] Humid dune slacks [2190]	7.3km	<b>Yes</b> The site is located west of this SAC. A weak hydrological pathway exists between this SAC and the site via (i) potential surface water discharges to the River Dodder (42m south of the site) which flows to the Liffey Estuary Lower and discharge to Dublin Bay, (ii) groundwater flows to the Dodder downgradient of the site, and (iii) the combined and foul water sewer system which passes through Ringsend WWTP and ultimately	<b>Yes</b>

	Petalophyllum ralfsii (Petalwort) [1395]		discharges to Dublin Bay	
South Dublin Bay and River Tolka Estuary SPA (004024)	Light-bellied Brent Goose (Branta bernicla hrota) [A046] Oystercatcher (Haematopus ostralegus) [A130] Ringed Plover (Charadrius hiaticula) [A137] Grey Plover (Pluvialis squatarola) [A141] Knot (Calidris canutus) [A143] Sanderling (Calidris alba) [A144] Dunlin (Calidris alpina) [A149] Bar-tailed Godwit (Limosa lapponica) [A157] Redshank (Tringa totanus) [A162] Black-headed Gull (Chroicocephalus ridibundus) [A179] Roseate Tern (Sterna dougallii) [A192] Common Tern (Sterna hirundo) [A193] Arctic Tern (Sterna paradisaea) [A194] Wetland and Waterbirds [A999]	3.2 Km	<b>Yes</b> The SPA is located in Dublin Bay, east of the site. A weak hydrological pathway exists between this SAC and the site via (i) potential surface water discharges to the River Dodder (42m south of the site) which flows to the Liffey Estuary Lower and discharge to Dublin Bay, (ii) groundwater flows to the Dodder downgradient of the site, and (iii) the combined and foul water sewer system which passes through Ringsend WWTP and ultimately discharges to Dublin Bay	<b>Yes</b>
North Bull Island SPA (004006)	Light-bellied Brent Goose (Branta bernicla hrota) [A046] Shelduck (Tadorna tadorna) [A048] Teal (Anas crecca) [A052] Pintail (Anas acuta) [A054]	7.3 km	<b>Yes</b> The SPA is located in Dublin Bay, east of the site. A weak hydrological pathway exists between this SAC and the site via (i) potential surface water discharges	<b>Yes</b>



	Oystercatcher (Haematopus ostralegus) [A130] Golden Plover (Pluvialis apricaria) [A140] Grey Plover (Pluvialis squatarola) [A141] Knot (Calidris canutus) [A143] Sanderling (Calidris alba) [A144] Dunlin (Calidris alpina) [A149] Black-tailed Godwit (Limosa limosa) [A156] Bar-tailed Godwit (Limosa lapponica) [A157] Curlew (Numenius arquata) [A160] Redshank (Tringa totanus) [A162] Turnstone (Arenaria interpres) [A169] Black-headed Gull (Chroicocephalus ridibundus) [A179] Shoveler (Spatula clypeata) [A857] Wetland and Waterbirds [A999]		to the River Dodder (42m south of the site) which flows to the Liffey Estuary Lower and discharge to Dublin Bay, (ii) groundwater flows to the Dodder downgradient of the site, and (iii) the combined and foul water sewer system which passes through Ringsend WWTP and ultimately discharges to Dublin Bay	
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In their Screening Report the applicant has included a number of other SAC and Spa which I consider are not within a Zone of Interest and can therefore be excluded at this stage.

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

#### AA Screening matrix

Site name Qualifying interests	Possibility of significant effects (alone) in view of the conservation objectives of the site*	
	Impacts	Effects
Site 1: South Dublin Bay SAC (00210)	Direct: None	The contained nature of the site, distance from and buffer area between

<p>Mudflats and sandflats not covered by seawater at low tide [1140] Annual vegetation of drift lines [1210] Salicornia and other annuals colonising mud and sand [1310] Embryonic shifting dunes [2110]</p>	<p><b>Indirect:</b></p> <p>Temporary, negative impacts on surface water and water quality due to construction related emissions including increase sedimentation and construction related pollution entering the River Dodder.</p>	<p>the site and the SAC make it highly unlikely that the proposed development could generate impacts of a magnitude that could affect habitat quality within the SAC for the SCI listed. Conservation objectives would not be undermined.</p>
	<b>Likelihood of significant effects from proposed development (alone): No</b>	
	<b>If No, is there likelihood of significant effects occurring in combination with other plans or projects? No</b>	
	<b>Possibility of significant effects (alone) in view of the conservation objectives of the site. No</b>	
	<b>Impacts</b>	<b>Effects</b>
<p><b>Site 2:</b> North Dublin Bay SAC (000206)</p> <p>Mudflats and sandflats not covered by seawater at low tide [1140] Annual vegetation of drift lines [1210] Salicornia and other annuals colonising mud and sand [1310] Atlantic salt meadows (Glauco-Puccinellietalia maritima) [1330] Mediterranean salt meadows (Juncetalia maritimi) [1410] Embryonic shifting dunes [2110] Shifting dunes along the shoreline with Ammophila arenaria (white dunes) [2120] Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]</p>	<p><b>Direct:</b> None</p> <p><b>Indirect:</b> Temporary, negative impacts on surface water and water quality due to construction related emissions including increase sedimentation and construction related pollution entering the River Dodder.</p>	<p>Given the intervening distance between the site and the SAC, the design of the proposed development, the standard construction measures contained in the CEMP and level of mixing, dilution and dispersion of any surface and/or ground water run-off/discharges in the receiving freshwater and marine environment prior to reaching the SAC in Dublin Bay is sufficient to exclude any potential effects arising from construction/operational discharges surface water run-off from the River Dodder.</p>

Humid dune slacks [2190]		
	<b>Likelihood of significant effects from proposed development (alone): No</b>	
	<b>If No, is there likelihood of significant effects occurring in combination with other plans or projects? No</b>	
	<b>Possibility of significant effects (alone) in view of the conservation objectives of the site. No</b>	
	<b>Impacts</b>	<b>Effects</b>
<b>Site 3:</b> South Dublin Bay and River Tolka Estuary SPA (004024)  Light-bellied Brent Goose ( <i>Branta bernicla hrota</i> ) [A046] Oystercatcher ( <i>Haematopus ostralegus</i> ) [A130] Ringed Plover ( <i>Charadrius hiaticula</i> ) [A137] Grey Plover ( <i>Pluvialis squatarola</i> ) [A141] Knot ( <i>Calidris canutus</i> ) [A143] Sanderling ( <i>Calidris alba</i> ) [A144] Dunlin ( <i>Calidris alpina</i> ) [A149] Bar-tailed Godwit ( <i>Limosa lapponica</i> ) [A157] Redshank ( <i>Tringa totanus</i> ) [A162] Black-headed Gull ( <i>Chroicocephalus ridibundus</i> ) [A179] Roseate Tern ( <i>Sterna dougallii</i> ) [A192] Common Tern ( <i>Sterna hirundo</i> ) [A193] Arctic Tern ( <i>Sterna paradisaea</i> ) [A194] Wetland and Waterbirds [A999]	<b>Direct:</b> None  <b>Indirect:</b> Temporary, negative impacts on surface water and water quality due to construction related emissions including increase sedimentation and construction related pollution entering the River Dodder.	Given the intervening distance between the site and the SAC, the design of the proposed development, the standard construction measures contained in the CEMP and level of mixing, dilution and dispersion of any surface and/or ground water run-off/discharges in the receiving freshwater and marine environment prior to reaching the SAC in Dublin Bay is sufficient to exclude any potential effects arising from construction/operational discharges surface water run-off from the River Dodder.

	<b>Likelihood of significant effects from proposed development (alone): No</b>	
	<b>If No, is there likelihood of significant effects occurring in combination with other plans or projects? No</b>	
	<b>Possibility of significant effects (alone) in view of the conservation objectives of the site. No</b>	
	<b>Impacts</b>	<b>Effects</b>
<b>Site 4:</b> North Bull Island SPA (004006)  Light-bellied Brent Goose ( <i>Branta bernicla hrota</i> ) [A046] Shelduck ( <i>Tadorna tadorna</i> ) [A048] Teal ( <i>Anas crecca</i> ) [A052] Pintail ( <i>Anas acuta</i> ) [A054] Oystercatcher ( <i>Haematopus ostralegus</i> ) [A130] Golden Plover ( <i>Pluvialis apricaria</i> ) [A140] Grey Plover ( <i>Pluvialis squatarola</i> ) [A141] Knot ( <i>Calidris canutus</i> ) [A143] Sanderling ( <i>Calidris alba</i> ) [A144] Dunlin ( <i>Calidris alpina</i> ) [A149] Black-tailed Godwit ( <i>Limosa limosa</i> ) [A156] Bar-tailed Godwit ( <i>Limosa lapponica</i> ) [A157] Curlew ( <i>Numenius arquata</i> ) [A160] Redshank ( <i>Tringa totanus</i> ) [A162] Turnstone ( <i>Arenaria interpres</i> ) [A169] Black-headed Gull ( <i>Chroicocephalus ridibundus</i> ) [A179] Shoveler ( <i>Spatula clypeata</i> ) [A857]	<b>Direct:</b> None  <b>Indirect</b> Temporary, negative impacts on surface water and water quality due to construction related emissions including increase sedimentation and construction related pollution entering the River Dodder.	Given the intervening distance between the site and the SPA, the design of the proposed development, the standard construction measures contained in the CEMP and level of mixing, dilution and dispersion of any surface and/or ground water run-off/discharges in the receiving freshwater and marine environment prior to reaching the SPA in Dublin Bay is sufficient to exclude any potential effects arising from construction/operational discharges surface water run-off from the River Dodder.

Wetland and Waterbirds [A999]		
	<b>Likelihood of significant effects from proposed development (alone): N</b>	
	<b>If No, is there likelihood of significant effects occurring in combination with other plans or projects? No</b>	
	<b>Possibility of significant effects (alone) in view of the conservation objectives of the site. No</b>	
<b>Step 4 Conclude if the proposed development could result in likely significant effects on a European site</b>		
<p>I conclude that the proposed development (alone) would not result in likely significant effects on South Dublin Bay SAC (00210) North Dublin Bay SAC (000206) South Dublin Bay and River Tolka Estuary SPA (004024) North Bull Island SPA (004006). The proposed development would have no likely significant effect in combination with other plans and projects on any European site(s). No further assessment is required for the project]. No mitigation measures are required to come to these conclusions.</p>		

## Screening Determination

### Finding of no likely significant effects

In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of the information considered in this AA screening, I conclude that the proposed development individually or in combination with other plans or projects would not be likely to give rise to significant effects on South Dublin Bay SAC (00210) North Dublin Bay SAC (000206) South Dublin Bay and River Tolka Estuary SPA (004024) North Bull Island SPA (004006) in view of the conservation objectives of these sites and is therefore excluded from further consideration. Appropriate Assessment is not required.

This determination is based on:

- Nature of the project, site and receiving environment.
- Objective information presented in the case documentation (e.g., SSFRA, Engineering Assessment Report).
- Absence of any meaningful pathways to any waterbody.
- Standard pollution controls and project design features

WFD IMPACT ASSESSMENT STAGE 1: SCREENING			
Step 1: Nature of the Project, the Site and Locality			
An Bord Pleanála ref. no.	322089/25	Townland, address	Milltown, Dublin
Description of project		Demolition of the existing building (comprising the residential dwelling known as 'Dunelm') and structures on site and the construction of a Build-to-Rent (BTR) residential development, comprising 63 no. BTR apartments	
Brief site description, relevant to WFD Screening,		Site is located on an elevated site surrounded by residential properties in an urban area. The site is approximately 60m from the River Dodder. The ground level of the site is significantly higher than the River Dodder.	
Proposed surface water details		SUDs system proposed which includes green roof, attenuation tank, and low water usage appliances. Storm water from the contributing catchment will be attenuated to limit discharge to green-field runoff rates with storm-water storage facilities and Suds elements incorporated to allow infiltration and reduction of run-off volumes and rates where possible.	
Proposed water supply source & available capacity		Water supply is from the public main and there is available capacity according to the Uisce Éireann submission on this file.	

Proposed wastewater treatment system & available capacity, other issues			All foul effluent shall be collected in 150mm and 225mm diameter pipes and flow under gravity via a new connection to the existing manhole located west of the existing Luas viaduct at to the Uisce Eireann Wastewater infrastructure. The Uisce Éireann Wastewater Treatment Capacity Register published in December 2024 outlines that there is spare capacity available within the Ringsend WWTP. The submission on file from Uisce Éireann raises no concern in relation to the capacity of the WWTP			
Others			The project development site is located within Flood Zone “C”. A Site-Specific Flood Risk Assessment was prepared. The site was reviewed for pluvial/fluvial/groundwater and infrastructure flooding sources and any associated risk is deemed to be within acceptable limits.  All proposed buildings are above the 4.0m AOD datum.			
Step 2: Identification of relevant water bodies and Step 3: S-P-R connection						
Identified water body	Distance to (m)	Water body name(s) (code)	WFD Status	Risk of not achieving WFD Objective e.g.at risk, review, not at risk	Identified pressures on that water body	Pathway linkage to water feature (e.g. surface run-off, drainage, groundwater)
River Waterbody						

	60m	River Dodder  River Waterbody IE_EA_09D0 10900	At Risk	At risk  Moderate Value	Urban Runoff	Surface water run-off	
Groundwater Waterbody	Underlying site	Dublin Ground Water Body  IE_EA_G_00 8	Review	Review	Not Specified	Surface Water Run-off	
Step 4: Detailed description of any component of the development or activity that may cause a risk of not achieving the WFD Objectives having regard to the S-P-R linkage.							
CONSTRUCTION PHASE							
No.	Component	Waterbody receptor (EPA Code)	Pathway (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	River Dodder	Surface water run off	Water Pollution - Deterioration	Mitigation measures set	No	Screened out



		River Waterbody IE_EA_09D 010900		of surface water quality from pollution of surface water run-off during site preparation and construction	out within the Outline Construction Environmental Management Plan, Demolition Method Statement and the Construction and Demolition Waste Management Plan		
2.	Ground	Dublin Ground Water Body  IE_EA_G_0 08IE_SE_G -0020	Drainage to ground	Reduction in groundwater quality from pollution of surface water run-off	Mitigation measures set out within the Outline Construction Environmental Management Plan, Demolition Method	No	Screened out

					Statement and the Construction and Demolition Waste Management Plan.		
<b>OPERATIONAL PHASE</b>							
3.	Surface	River Dodder  River Waterbody IE_EA_09D 010900	Surface water runoff	Deterioration of water quality	SUDs features;  Incorporation of silt and oil interceptors to ensure clean discharge and	No	Screened out
4.	Ground	Dublin Ground Water Body  IE_EA_G_0 08IE_SE_G -0020	Drainage	Reduction in groundwater	SUDs features.  Connection to Uisce Éireann network and to Ringsend WWTP.	No	Screened out

<b>DECOMMISSIONING PHASE</b>							
5.	Decommissioning is not anticipated as this is a permanent residential development						Screened Out