



An  
Coimisiún  
Pleanála

## Inspector's Report

### ACP-323142-25

#### Development

Seven-year permission for an LRD comprising a purpose-built student accommodation (PBSA) and residential development including 439 PBSA bedspaces, 16 residential apartments, the extension and renovation of 14 houses, and all associated site development and infrastructural works. A Natura Impact Statement (NIS) accompanies the application. ([www.papermillslrd.ie](http://www.papermillslrd.ie))

#### Location

Former Paper Mills site, Clonskeagh Road, Clonskeagh, Dublin 6, and adjoining properties No. 59, 61, 63, 65, 73, 85, 87, 89, 93, 95, 97, 99, 101 and 103 Clonskeagh Road, Dublin 6

#### Planning Authority

Dublin City Council (DCC)

#### Planning Authority Reg. Ref.

WEBLRD6063/25-S3

#### Applicant

Harley Issuer Designated Activity Company

#### Type of Application

Large-Scale Residential Development (LRD)

**Planning Authority Decision**

Grant Permission

**Type of Appeal**

Third Parties v Grant of Permission

**Appellants**

1. Eglinton Residents Association
2. Ben McArdle & Dylan Greally

**Observers**

1. Philip O'Reilly
2. UCD Students Union

**Date of Site Inspection**

29<sup>th</sup> September 2025

**Inspector**

Anthony Kelly

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## 1.0 Site Location and Description

- 1.1. The main development site area is located at the former Paper Mills site on Clonskeagh Road, Dublin 6, a backland site to the rear of a number of properties on the eastern side of the road.
- 1.2. This part of the site is irregularly shaped. It is bounded to the north by residential and commercial development (Ashton's public house). The site is bounded all along the east and south by the River Dodder. To the south east there is an Applegreen service station and a line of two-storey terraced units with commercial uses on their ground floors. These properties address Clonskeagh Road. To the west and north west there is a line of single and two-storey terraced houses addressing Clonskeagh Road. Some of these form part of the planning application (nos. 59, 61, 63, 65, 73, 85, 87, 89, 93, 95, 97, 99, 101, and 103) and some do not (nos. 51, 53, 55, 57, 75, 77, 79, 81, 83, and 91). There is an approx. 35 metres stretch of Clonskeagh Road in the north west area of the site where previous structures have been demolished. There is a substantial amount of rubble on site. The ground level on site is lower than Clonskeagh Road and the finished floor levels (FFLs) of the houses. The site is relatively flat with a flood wall and a line of mature trees/riparian corridor along its eastern and southern boundary which runs parallel with the adjacent river.
- 1.3. There are also areas of the site boundary outside of the main development site, including limited areas of Clonskeagh Road. There is an area on the opposite side of Clonskeagh Road to the south west of the main development site comprising a wooded area and a short length of roadway/paths along the northern side of the River Dodder, as well as part of Clonskeagh Bridge. The site also includes part of Smurfit Weir in the Dodder adjacent to the main development site area downstream/east of Clonskeagh Bridge.
- 1.4. The site has a gross area of approx. 1.59 hectares with a net area of approx. 0.9 hectares<sup>1</sup>.

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<sup>1</sup> The net site area is the area within the control of the applicant i.e. excluding land on Clonskeagh Road and on the opposite side of Clonskeagh Road west of Clonskeagh Bridge. I consider this to be appropriate.

## 2.0 Proposed Development

2.1. Permission is sought for an LRD with a seven-year permission comprising residential development and purpose-built student accommodation (PBSA). The proposed development comprises:

- Site clearance and the demolition of extensions to the rear of nos. 73, 85, 87, 89, 93, 95, 97, 99, and 101 Clonskeagh Road, and the side and rear extension of no. 103.
- Construction of a residential development and PBSA in five blocks (Blocks 1-5) ranging from part 1 to part 7 storeys in height above a lower ground level, and extension and renovation of 14 existing houses. The proposed development includes 16 residential apartments in Block 1 (one studio, four 1-bed apartment, and 11 2-bed apartments) and 439 PBSA bedspaces in Blocks 2-5 (including 133 studios and 306 bedspaces in 40 clusters). The PBSA includes ancillary student amenities.
  - Block 1, which fronts onto Clonskeagh Road, comprises 16 no. residential apartments in a part 1 to part 4 storey building, above lower ground level. Floorspace for Class 10 (community/arts) and/or Class 11 (cultural) uses is located at lower and upper ground floor level.
  - Block 2 comprises 103 PBSA bedspaces in a part 3 to part 6 storey building, above lower ground level. Ancillary internal student amenities and a café use are provided.
  - Block 3 comprises 121 PBSA bedspaces in a part 3 to part 7 storey building, above lower ground level. Ancillary internal student amenities are provided.
  - Block 4 comprises 90 PBSA bedspaces in a part 5 to part 6 storey building, above lower ground level.
  - Block 5 comprises 125 PBSA bedspaces in a part 5 to part 6 storey building, above lower ground level.
- The lower ground level contains car and cycle parking and ancillary facilities. 33 no. car parking, 2 motorcycle, and 575 cycle parking spaces are provided.
- The development includes the extension and renovation of 14 existing houses (59, 61, 63, 65, 73, 85, 87, 89, 93, 95, 97, 99, 101 and 103 Clonskeagh Road) providing one 1-bed, nine 2-bed, and four 3-bed houses.

- The development will also provide communal open space for the PBSA and the residential apartments, outdoor space for the community/arts/cultural use, landscaping, boundary treatments, a biodiversity corridor along the River Dodder, two vehicular and pedestrian/cycle entrances from Clonskeagh Road, and associated public realm works.
- The development also provides for flood defence and alleviation works, including flood walls along the eastern site boundary, a catchment trench fronting Clonskeagh Road, flood defence wall to replace the existing railing to the western side of Clonskeagh Bridge, and flood defence wall and embankment to the south of Farmer Brown's Public House. The proposal includes for lowering the sluice gates and provision of grade control structures to the Smurfit Weir along the eastern boundary.
- All associated site development and infrastructural works.

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

**Table 2.1 – Key Figures**

Site Area (Gross / Net)	Approx. 1.59 hectares / approx. 0.9 hectares
Number of Units	<p>14 existing houses to be extended/renovated (one 1-bed, nine 2-bed, and four 3-bed)</p> <p>16 residential apartments (one studio, four 1-bed, and 11 2-bed)</p> <p>439 PBSA bedspaces (133 studios and 306 bedspaces in 40 clusters (four 6-bed clusters, six 7-bed clusters, and 30 8-bed clusters))</p>
Height	Part one to part seven storeys over lower ground floor level (this would present as a maximum eight storeys when viewed from the opposite side of the river on Beech Hill Road)
Density (units per hectare (uph))	275uph <sup>2</sup>
Dual Aspect (Apartments)	62.5% (10/16)

<sup>2</sup> See paragraphs 9.2.2 and 9.2.3.

Open Space / Amenities	<p><u>Open space</u></p> <p>Communal open space of 1,568.1sqm for PBSA, 302.5sqm for residential development, and 75.9sqm for community/arts/cultural space.</p> <p><u>Amenities</u></p> <p>604sqm of community/arts/cultural space is provided at lower and upper ground floors in Block 1. A café is provided in Block 2.</p> <p>A number of student amenities are provided in Blocks 2-3 including a gym, yoga studio, private dining room, lounge, games room, and cinema room.</p>
Pedestrian / Cycle Infrastructure	None in particular given the limited site area and absence of future permeability possibilities
Car and Bicycle Parking	<p><u>Car</u></p> <p>33 spaces (16 residential, 14 for students, two for community/arts/cultural space, and one car-share)</p> <p><u>Motorcycle</u></p> <p>Two spaces</p> <p><u>Bicycle</u></p> <p>575 spaces (472 secure spaces (28 residential, 440 student, and four community/arts/cultural) and 103 short-stay visitor spaces (eight residential, 88 student, and seven community/arts/cultural))</p>
Part V	3 no. apartment units. The houses are existing, and Part V does not apply to student accommodation.

2.3. **Table 2.2 – Overall Unit Breakdown**

Unit Type		
Renovated/Extended Houses	Residential Apartments	PBSA Bedspaces
14	16	439

2.4. **Table 2.3 – Housing Breakdown (Existing Houses to be Extended/Renovated)**

	Bedroom Number			
Type	1-Bed	2-Bed	3-Bed	Total
Houses	1	9	4	14
Total	1 (7.1%)	9 (64.3%)	4 (28.6%)	14 (100%)

2.5. **Table 2.4 – Residential Apartment Breakdown (Block 1)**

	Bedroom Number			
Type	Studio	1-Bed	2-Bed	Total
Apartments	1	4	11	16
Total	1 (6.25%)	4 (25%)	11 (68.75%)	16 (100%)

2.6. **Table 2.5 – PBSA Cluster and Bedspace Breakdown (Blocks 2-5)**

Type	Studio	Cluster of 6	Cluster of 7	Cluster of 8	Total
Number of Clusters	N/A	4	6	30	40
Number of Bedspaces	133	24	42	240	439
Total	133 (30.2% of bedspaces)	4/24 (10% of clusters.	6/42 (15% of clusters.	30/240 (75% of clusters.	439



		5.5% of bedspaces)	9.6% of bedspaces)	54.7% of bedspaces)	
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- 2.7. There are five proposed blocks. Block 1 is the residential apartment block. It is located along Clonskeagh Road in the area where previous structures have been demolished. The four PBSA blocks are located in a north-south orientation along the eastern boundary of the site parallel to the Dodder. Block 2 is a detached block whereas Blocks 3-5 are attached to each other. There are two vehicular accesses from Clonskeagh Road (the vehicular entrance which accesses the lower ground level car park is located between nos. 103 and 105 Clonskeagh Road and the entrance accessing the podium area is located between no. 65 and proposed residential Block 1). Open space areas are provided both on roofs (Block 1) and at lower ground floor and podium levels within the body of the site. The open space area along the river would not be accessible. Flood defence and alleviation works are proposed on the north side of the Dodder to the west of Clonskeagh Bridge. This forms part of a wider scheme. It is also proposed to alter part of the Smurfit Weir to facilitate easier upstream access for aquatic species.
- 2.8. Letters of consent from Dublin City Council (DCC) accompanied the application with regard to the inclusion in the application of lands under its ownership i.e. part of Clonskeagh Road and land north of the River Dodder immediately west of and including Clonskeagh Bridge. These lands are included to provide for utility connections, site entrances, and flood alleviation works. The applicant has indicated the riparian boundary along the main development site and works to the existing weir are to be taken in charge. The construction phase is anticipated to be 18-24 months (page 45 of the applicant's AA Screening Report).
- 2.9. It is proposed to discharge foul water from the site by gravity to the existing 675mm combined sewer in Clonskeagh Road. Foul drainage in the lower ground levels will be pumped to a standoff manhole before draining by gravity. The 14 houses are connected to the sewer. Although the existing drainage infrastructure consists of a combined foul and surface water sewer, the foul and surface water drainage will be drained on separate systems throughout the development and surface water will discharge to the Dodder River via a new headwall with the discharge rate restricted to

the greenfield equivalent runoff rate. Excess flows over and above the greenfield runoff will be attenuated in an underground storage tank located in the lower ground car park in the northern area of the site. Sustainable urban drainage systems (SuDS) such as green and blue roofing, bioretention planters, tree pits, and a detention basin (above the underground storage tank) are proposed.

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

- 'Planning Report & Statement of Consistency' dated May 2025,
- 'EIA Screening Report' dated April 2025,
- 'Appropriate Assessment Screening Report' dated April 2025 and a 'Natura Impact Statement' (NIS) dated April 2025,
- 'Statement of Response to LRD Opinion' dated May 2025, 'LRD Opinion Response – Ecology & Environmental' dated April 2025, 'Engineering Response to LRD Stage 2 Opinion' dated April 2024 [sic], and 'Response to LRD Opinion' dated 24<sup>th</sup> April 2025,
- 'Architectural Design Statement' (ADS) dated 24<sup>th</sup> April 2025,
- 'Architectural Heritage Impact Assessment' dated April 2025,
- 'Ecological Impact Assessment Report' (EcIA) dated April 2025,
- 'Arboricultural Assessment' dated 28<sup>th</sup> February 2025,
- 'Design Rationale – Landscape Architecture' dated 4<sup>th</sup> April 2025,
- 'Sunlight, Daylight & Shadow Assessment' (SDSA) (undated),
- 'Public Transport Capacity Analysis' dated April 2025,
- 'Traffic and Transport Assessment' (TTA) dated April 2025,
- 'Engineering Assessment Report' dated April 2025,
- 'Construction Environmental Management Plan' (CEMP) dated April 2025,
- 'Construction & Demolition Management Plan' dated April 2025,
- 'Resource & Waste Management Plan' dated 20<sup>th</sup> March 2025,

- 'Hydrological and Hydrogeological Risk Assessment Report' (HHRAR) dated April 2025,
- 'Flood Risk Assessment' (FRA) dated April 2025,
- 'Archaeological Impact Assessment Report' dated 14<sup>th</sup> March 2025,
- 'Mobility Management and Travel Plan' dated April 2025,
- 'Preliminary Construction Method Statement for the Construction of the Upstream Flood Relief Works' (undated),
- 'Fish Passage Design Report' dated 24<sup>th</sup> March 2025,
- 'Schedule of Accommodation and Areas' dated 24<sup>th</sup> April 2025, and,
- 'Verified Photomontages and CGI Views' dated April 2025.

### **3.0 Planning Authority Pre-Application Opinion**

- 3.1. The LRD meeting (P.A. Ref. LRD6063/24-S2) between the applicant and DCC took place on 24th October 2024.
- 3.2. In the LRD Opinion subsequently issued on 21st November 2024<sup>3</sup> the planning authority was of the opinion that the documents submitted required further consideration and amendment to constitute a reasonable basis for an LRD application. The issues identified by the planning authority included a number of design issues, density, EIA screening, architectural heritage impact assessment, alterations to the historic weir, archaeology, flooding, SuDS, WFD, active travel, and open space/biodiversity.

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<sup>3</sup> The DCC Planning Report states it was issued on 21<sup>st</sup> November 2024 whereas page 1 of the applicant's Statement of Response to LRD Opinion states it was issued on 20<sup>th</sup> November 2024.

## 4.0 Planning Authority Decision

### 4.1. Decision

- 4.1.1. DCC granted permission subject to 23 relatively standard conditions for a development of the type proposed. There are a number of conditions which are development-specific in detail e.g. condition 4 for PBSA, condition 11 for archaeology, and condition 22 for works associated with the river.

### 4.2. Planning Authority Reports

- 4.2.1. One Planning Report was prepared by DCC. This contained, inter alia, a site description, the applicable zonings, issues cited in the LRD Opinion, a planning history, a summary of reports received from internal sections and prescribed bodies, a summary of third party submissions, the policy framework, and a planning assessment. Some of the sub-headings in the planning assessment can be summarised as follows.
- 4.2.2. *Evaluation of consistency* – Areas where the proposed development is considered to vary with national, regional, and local policy and guidelines are identified in the body of the report.
- 4.2.3. *Height, design, and residential amenity* – It is considered that the proposed development will promote a sense of place and character. The site re-development will enhance the legibility along Clonskeagh Road and addresses the river. The urban character would be strengthened. A variety of uses is proposed. Environmental sustainability has been incorporated into the scheme design. It is considered to be an appropriate location for increased density. The restoration of the houses will positively enhance the streetscape. The impact on adjoining properties in terms of daylight and sunlight would be acceptable.
- 4.2.4. *Screening for appropriate assessment* – It can be concluded that with the implementation of mitigation measures the proposed works do not pose a risk of adversely affecting the integrity of any Natura 2000 site, either alone or in-combination with other plans or projects.

- 4.2.5. *Environmental impact assessment* – By reason of the nature, scale and location of the site, the proposed development would not be likely to have significant effects on the environment and a mandatory Environmental Impact Assessment Report (EIAR) is not required.
- 4.2.6. Under the sub-headings of conservation, archaeology, services and drainage, access, movement and parking, landscape and biodiversity, and environmental health the Planning Report summarises or refers to the relevant internal report.
- 4.2.7. The Planning Report concludes, ‘the application site is a vacant brownfield site. The proposed development ... will make efficient use of this underutilised site. Having regard to the zoning of the site, the provisions of the 2022-2028 City Development Plan, it is considered that the proposed development ... would accord with the proper planning and sustainable development of the area ...’

4.2.8. **Other Technical Reports**

**Drainage Division** – No objection subject to conditions.

**Transportation Planning** – Commentary is provided under a number of sub-headings and indicates no objection subject to conditions.

**Parks, Biodiversity and Landscape Services** – Commentary is provided under a number of sub-headings and indicates no objection subject to conditions.

**Conservation Officer** – Commentary is provided under a number of sub-headings and the report recommends a grant of permission subject to conditions.

**Archaeology Section** – Commentary is provided under a number of sub-headings and the report recommends conditions.

**Air Quality Monitoring & Noise Control Unit** – If permission is granted conditions are recommended.

**Environmental Health Section, Housing & Community Services Department** – Observation made.

4.3. **Prescribed Bodies**

- 4.3.1. **Inland Fisheries Ireland (IFI)** – A number of observations are made relating to, inter alia, the significance of the Dodder, the WFD status, implementation of NIS and CEMP

mitigation measures, SuDS maintenance, the capacity of the foul network, timing of in-stream works, protection of the riparian zone, and lighting. Observations are also made in relation to the proposed fish passage, to which IFI have no objection in principle, including pre-implementation discussion with IFI's Barrier Implementation Team, ensuring works would not preclude future options being implemented at this location, requiring the developer to co-operate with the IFI in carrying out assessments, the development's foundation design, and maintenance of the fish pass.

- 4.3.2. **Uisce Éireann** – A Confirmation of Feasibility has been issued advising that a water connection is feasible subject to upgrades and a wastewater connection is feasible without infrastructure upgrade.

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

- 4.4.1. Nine submissions were received from residents of the general area, two residents' associations, and Dodder Anglers Association. The broad and main issues raised are largely covered by the grounds of appeal and observations on the grounds of appeal with the exception of the following:

- Drainage and structural issues to adjacent residential properties arising from previous and arguably unauthorised works on site.
- A loss of community in the area from the transient nature of PBSA occupants.
- The site should be used for houses.
- Concern that the proposals are in breach of the Habitats Directive & WFD.
- The weir should be fully or partially removed.
- The area between the construction site and the river must be preserved.
- Restriction of sunlight to the river and the extent of artificial light pollution.
- The eastern railing of Clonskeagh Bridge should not be replaced by a wall as this is not needed for flood protection.

## 5.0 Planning History

- 5.1.1. There have been a number of previous applications on site. Relevant recent applications are summarised as follows.
- 5.1.2. P.A. Reg. Ref. 2620/14 – In 2015 permission was granted to demolish the existing offices, factory buildings, yards, chimneys, and ancillary accommodation on site, construct 92 apartments in four blocks up to four storeys in height above lower ground level, a creche, and associated works. In 2020 permission was granted for an extension of duration of this permission under P.A. Reg. Ref. 2620/14/X1 until 5th June 2025.
- 5.1.3. P.A. Reg. Ref. 2308/16 / ABP Ref. PL29S.247062 – In 2016, following third party appeals against the decision by DCC to grant permission, the Board granted permission for revisions to 2620/14 to include an increase in apartment units from 88 to 97 and associated works to facilitate the revisions.
- 5.1.4. P.A. Reg. Ref. 2477/17 – In 2017 permission was granted for the partial demolition/alterations to house nos. 59, 61, 63 and 65 and the construction of rear single storey with two storey over extensions to same to provide four lower garden level apartments and four duplex apartments, two three storey mews houses to the rear of No. 59 to 65, partial demolition/alterations of various ground and first floor extensions to the rear of 73, 85, 87, 89, 93, 95, 97, 99, 101 and 103 and construction of two storey rear extensions with associated works.
- 5.1.5. P.A. Reg. Ref. 3159/17 / ABP Ref. 300024-17 – In 2018, following a third party appeal of the decision of DCC to grant permission, the Board granted permission for revisions to 2308/16 consisting of an increase in apartment units from 96 to 116, and internal alterations to the basement car park layout.
- 5.1.6. P.A. Reg. Ref. 3774/21 – The application was withdrawn in 2022. Permission had been sought for a residential (167 units) and aparthotel (24 units) development in 4 no. blocks ranging from part 1 to part 7 storeys in height above a lower ground/basement level, car parking, open spaces, riverside walkway etc. Issues had arisen in relation to, inter alia, flood protection works outside the application boundary.
- 5.1.7. P.A. Reg. Ref. VS-0800 / ABP Ref. ABP-313460-22 – In 2023, following a first-party appeal, the Board determined that the site was a vacant site.

*Adjacent to north (Ashton's)*

- 5.1.8. P.A. Reg. Ref. 5046/23 / ABP Reg. Ref. ABP-319365-24 – In 2024, following a first party appeal of the decision by DCC to issue a split-decision, the Board also made a split-decision on a 0.1008 hectare site. Permission was granted for retention of some works. A refusal of permission issued for, inter alia, a 220sqm garden room and a 1,395sqm five-storey extension to the south containing public house/restaurant on lower and upper ground floors and boutique hotel bedrooms on first, second and third floors because the scale of development and proximity to residential dwellings would lead to a significant intensification of the existing use and would have a detrimental impact on the residential amenities, would be a visually obtrusive form of development, would be contrary to Policy CEE28 (Visitor Accommodation) of the DCDP 2022-2028, and would be contrary to Section 15.15.2.2 (Conservation Areas) of the Plan where applications are required to protect the amenities of surrounding properties and to be cognisant and/or complementary to the existing scale, building height and massing of the surrounding context. There were also two other reasons for refusal relating to other aspects of the proposed development (development description and insufficient information).

## **6.0 Policy Context**

### **6.1. Project Ireland 2040 National Planning Framework First Revision (2025) (NPF)**

- 6.1.1. The NPF is the long-term 20-year strategy for strategic planning and sustainable development of Ireland's urban and rural areas to 2040, with the core objectives of securing balanced regional development and a sustainable 'compact growth' approach to the form and pattern of future development. It is focused on delivering 10 National Strategic Outcomes.
- 6.1.2. In relation to student accommodation, sub-section 6.6 (Housing) states 'Demand for student accommodation exacerbates the demand pressures on the available supply of rental accommodation in urban areas in particular. In the years ahead, student accommodation pressures are anticipated to increase. The location of purpose-built student accommodation needs to be as proximate as possible to the centre of



education, as well as being connected to accessible infrastructure such as walking, cycling and public transport. Student accommodation also contributes to the financial, cultural and social fabric of regions, cities and towns. The adaptive reuse of existing buildings and brownfield sites for student accommodation can assist with the reduction of vacancy and dereliction, thereby promoting vitality and vibrancy in settlements, in support of Town Centre First principles. The National Student Accommodation Strategy supports these objective’.

6.1.3. Relevant National Policy Objectives (NPOs) include:

NPO 4 – A target of half (50%) of future population and employment growth will be focused in the existing five cities and their suburbs.

NPO 8 – Deliver at least half (50%) of all new homes that are targeted in the five Cities and suburbs of Dublin, Cork, Limerick, Galway and Waterford, within their existing built-up footprints and ensure compact and sequential patterns of growth.

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

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

NPO 22 – In urban areas, planning and related standards, including in particular building height and car parking will be based on performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth.

NPO 78 – Promote sustainable development by ensuring flooding and flood risk management informs place-making by:

- Avoiding inappropriate development in areas at risk of flooding that do not pass the Justification Test, in accordance with the Guidelines on the Planning System and Flood Risk Management;
- Taking account of the potential impacts of climate change on flooding and flood risk, in line with national policy regarding climate adaptation.

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

## **6.2. Housing for All – A New Housing Plan for Ireland to 2030 (2021)**

- 6.2.1. This is the government's housing plan to 2030. It aims to improve Ireland's housing system and deliver more homes of all types for people with different housing needs.

## **6.3. Climate Action Plan (CAP) 2025**

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

## **6.4. Ireland's 4th National Biodiversity Action Plan 2023-2030**

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

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

- 6.5.1. The Guidelines set out policy and guidance in relation to the planning and development of urban and rural settlements, with a focus on sustainable residential

development and the creation of compact settlements. There is a renewed focus in the Guidelines on, inter alia, the interaction between residential density, housing standards, and quality urban design and placemaking to support sustainable and compact growth.

- 6.5.2. I consider the site to be located within a 'City – Urban Neighbourhood' as per table 3.1 (Areas and Density Ranges Dublin and Cork City and Suburbs) i.e. including '(i) the compact medium density residential neighbourhoods around the city centre that have evolved overtime to include a greater range of land uses ... 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'.
- 6.5.3. Footnote 3 on page 18 states 'When calculating net densities for shared accommodation, such as student housing, four bed spaces shall be the equivalent of one dwelling'. I further address the issue of density in sub-section 9.2.

#### **6.6. Urban Development and Building Heights Guidelines for Planning Authorities (December 2018)**

- 6.6.1. These Guidelines are intended to set out national planning policy guidelines. Reflecting the NPF strategic outcomes in relation to compact urban growth, there is significant scope to accommodate anticipated population growth and development needs by building up and consolidating the development of our existing urban areas. I further address the issue of building height in sub-section 9.2.

#### **6.7. The Planning System and Flood Risk Management Guidelines for Planning Authorities (2009)**

- 6.7.1. These Guidelines introduce comprehensive mechanisms for the incorporation of flood risk identification, assessment, and management into the planning process. The core objectives include avoiding inappropriate development in areas at risk of flooding, avoiding new developments increasing flood risk elsewhere, and avoiding unnecessary restriction of national, regional or local economic and social growth.

## **6.8. Sustainable Urban Housing: Design Standards for New Apartments (July 2023)**

- 6.8.1. The overall purpose of these Guidelines is to strike an effective regulatory balance in setting out planning guidance to achieve both high quality apartment development and a significantly increased overall level of apartment output. They apply to all housing developments that include apartments that may be made available for sale, whether for owner occupation or for individual lease.
- 6.8.2. Paragraph 5.13 of the Guidelines state 'For clarity, these Guidelines do not apply to established forms of accommodation with a shared or communal element, including ... student accommodation ...'
- 6.8.3. I note that the Planning Design Standards for Apartments Guidelines for Planning Authorities (2025) have been introduced since the application was submitted. However, as these only apply to applications for planning permission submitted after the issuing of the Guidelines, they are not applicable to the consideration of this LRD application.

## **6.9. Quality Housing for Sustainable Communities Best Practice Guidelines (2007)**

- 6.9.1. The aim of the Guidelines is to identify principles and criteria that are important in the design of housing.

## **6.10. National Student Accommodation Strategy (2017)**

- 6.10.1. The Strategy is designed to ensure that there is an increased level of supply of PBSA to reduce the demand for accommodation in the private rental sector by both domestic and international students attending higher education institutions.
- 6.10.2. The Strategy includes, as appendix B, sample use conditions, including that student accommodation can be used for tourist/visitor accommodation only during academic holiday periods.

## **6.11. Eastern & Midland Regional Assembly Regional Spatial & Economic Strategy (RSES) 2019-2031**

- 6.11.1. The RSES provides for the development of nine counties / twelve local authority areas, including DCC. It is a strategic plan which identifies regional assets, opportunities, and

pressures and provides appropriate policy responses in the form of Regional Policy Objectives. It provides a framework for investment to better manage spatial planning and economic development throughout the region.

## **6.12. Dublin City Development Plan (DCDP) 2022-2028**

### Zoning and Flood Risk

6.12.1. The main development site area is primarily zoned 'Z1 – Sustainable Residential Neighbourhoods' with the riparian/biodiversity corridor area and the area on the opposite side of Clonskeagh Road to the south west of the main development site zoned 'Z9 – Amenity/Open Space Lands/Green Network'. The majority of the site is identified as being within a 'Conservation Area'. The southern area of the main development site (outside the building footprints) and the area on the opposite side of Clonskeagh Road are within a Record of Monuments and Places boundary i.e. DU022-090<sup>4</sup>.

6.12.2. The site (as well as adjacent areas such as Clonskeagh Road, the adjacent service station and Farmer Brown's public house) is located within an area identified as Flood Zones A/B on Map H of volume 7 (Strategic Flood Risk Assessment) of the Plan.

### Density

6.12.3. Appendix 3 (Achieving Sustainable Compact Growth Policy for Density and Building Height in the City) relates to density and building height and is assessed in sub-section 9.2. Table 1 of the appendix gives a density range of 60-120uph for 'outer suburbs'.

### Student Accommodation

6.12.4. The main component of the proposed development is PBSA. Policies QHSN44 and QHSN45 state:

*'It is the policy of DCC to avoid the proliferation and concentration of clusters of build to rent/student accommodation/co-living development in any area of the city' (QHSN44).*

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<sup>4</sup> This is described on the government's publicly available National Monuments Service Historic Environment Viewer as follows; 'The Down Survey map (1655-6) shows a bridge crossing the river Dodder at Clonskeagh. This has been replaced relatively recently by a granite bridge. The make-up of this structure varies from the E to the W face suggesting different building phases (O'Keefe & Simington 1991, 212)'.

*‘To support the provision of high-quality, professionally managed and purpose-built third-level student accommodation in line with the provisions of the National Student Accommodation Strategy (2017), on campuses or in appropriate locations close to the main campus or adjacent to high-quality public transport corridors and cycle routes, in a manner which respects the residential amenity and character of the surrounding area, in order to support the knowledge economy. Proposals for student accommodation shall comply with the ‘Guidelines for Student Accommodation’ contained in the development standards chapter. There will be a presumption against allowing any student accommodation development to be converted to any other use during term time’ (QHSN45).*

- 6.12.5. Student accommodation is set out in sub-section 15.13.1 of volume 1. This states, inter alia, that professionally managed PBSA is supported in accessible locations, it should accord with policy QHSN45, it should make a positive contribution to the built environment, it should be accompanied by documentation outlining how the scheme will be professionally managed<sup>5</sup> including confirmation that all occupiers will be students registered with a third-level institution, and that it is preferable in principle that student needs are met as far as possible in PBSA rather than the widespread conversion of family housing. Key factors in assessing applications will be an appropriate location by active or public transport to the third-level facility and that it would not result in an excessive concentration of student accommodation.
- 6.12.6. Additional standards are outlined in sub-sections 15.3.1.1-15.3.1.5. A maximum of 8 bed spaces and a maximum gross floor area of 160sqm shall be provided in any ‘cluster’ of student accommodation units. A ‘studio’ model may also be considered in certain circumstances within larger schemes. Student accommodation should be designed to give optimum orientation in terms of daylight to habitable rooms while residential standards in relation to dual aspect may be relaxed. Communal facilities and services shall be provided both internally and externally, as per table 15-8 (Communal Requirements for Student Accommodation Clusters). Designated car parking will not be supported in student accommodation schemes but a minimum of one cycle parking space per resident should be provided as well as visitor parking at surface level at a rate of 1 per 10 residents. The use of student accommodation as

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<sup>5</sup> The application was accompanied by a ‘Property Management Strategy Report’ dated March 2025.

temporary tourist accommodation will be considered outside the normal academic year.

#### Apartments

- 6.12.7. Apartment standards are set out in sub-section 15.9 of volume 1. The Sustainable Urban Housing: Design Standards for New Apartments (December 2020), 'or any other future amendment thereof' (i.e. the 2023 Guidelines as applicable to this application), sets out SPPRs for apartment developments and should be referenced as part of any planning application for apartment developments.

#### House Alterations and Extensions

- 6.12.8. The provisions of the Plan relevant to the housing element of the proposed development is contained in appendix 18 (Ancillary Residential Accommodation).

#### Conservation Area

- 6.12.9. The river and the vast majority of the main development site area is within the boundary of a Conservation Area as outlined on Map H of the Plan (volume 3). The flood defence and alleviation works area to the north of the river is not within the boundary. Though these areas do not have a statutory basis in the same manner as protected structures or architectural conservation areas, they are recognised as areas that have conservation merit and importance and warrant protection through zoning and policy application. The special interest/value lies in the historic and architectural interest and the design and scale of these areas, and they require special care in terms of development proposals. Policy BHA9 and sub-section 15.15.2.2 applies. This is further addressed in sub-section 9.6 of this report.

#### Objective CUO25

- 6.12.10. Objective CUO25 requires that large scale developments above 10,000sqm must provide at a minimum for 5% community, arts, and culture spaces. The application includes for a gross floor area of 604sqm of community/arts/cultural space to meet the requirements of this objective. This is further addressed in section 9.7 of this report.

#### Other Matters

- 6.12.11. Given the nature of the proposed development there are a number of chapters in volume 1 of the Plan that are relevant e.g. chapter 4 (Shape and Structure of the City), chapter 5 (Quality Housing and Sustainable Neighbourhoods), chapter 9 (Sustainable

Environmental Infrastructure and Flood Risk), chapter 10 (Green Infrastructure and Recreation), and chapter 15 (Development Standards). These are referenced within the Assessment section of this report where relevant. Some appendices to the Plan are also relevant, such as appendix 3.

### **6.13. Natural Heritage Designations**

- 6.13.1. The nearest areas of natural heritage designation are South Dublin Bay special area of conservation (SAC), South Dublin Bay and River Tolka Estuary special protection area (SPA), and South Dublin Bay proposed natural heritage area (pNHA) approx. 2.1km to the east of the subject site, and Grand Canal pNHA approx. 2.1km to the north, all as the crow flies.

## **7.0 The Appeal**

### **7.1. Grounds of Appeal**

- 7.1.1. Two third party grounds of appeal have been received by the Commission from:
1. Robin Mandal, Chair of the Eglinton Residents Association<sup>6</sup>, and,
  2. Ben McArdle & Dylan Greally, 91 Clonskeagh Road (a property on the eastern side of Clonskeagh Road immediately surrounded by the subject site to the north, east, and south).
- 7.1.2. The grounds of appeal can be separately summarised as follows:

#### Eglinton Residents Association

- The Association has been in favour of all previous applications granted on site however the current development comprises overdevelopment and would set an undesirable precedent for built structures along the edge of the river.
- The site is not located in an inner suburb as defined by the DCDP 2022-2028 and is not a key location suitable for additional height as argued by the applicant. It is

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<sup>6</sup> Eglinton Road/Wood/Court/Park are located north of the subject site. The distance between the subject site and the closest property on Eglinton Court is approx. 120 metres.



clearly an 'outer suburban' area as defined by the Plan. The DCC Planning Report inconsistently assesses the site as being in an outer suburban area according to the Plan and as an inner neighbourhood under the Compact Settlement Guidelines (2024). Therefore the assessment is incorrect.

- The applicant contends the site is in a 'City – Urban Neighbourhood' under the Compact Settlement Guidelines (2024) thereby seeking higher densities than those in the DCDP 2022-2028 for an outer suburb. It is not a 'City – Urban Neighbourhood' site under the Guidelines, it is a 'City – Suburban/Urban Extension' location. The proposed 161uph density is double the maximum 80uph density in a 'City – Suburban/Urban Extension' area. Though densities of up to 150uph are available in accessible locations of the 'City – Suburban/Urban Extension' area, the site is not in an accessible area. DCC's planning assessment is incorrect.
- The DCC Planning Report failed to assess whether the location is suitable for increased height. The Key Criteria of Table 3<sup>7</sup> were not adhered to. It is requested that an assessment of the criteria in table 3 is independently assessed by the Commission's inspector. The site is not in any of the locations identified in the DCDP 2022-2028 for more intensive development. Permitting the proposed heights would be a material contravention of the Plan and the Z9 zoning<sup>8</sup> has been contravened.
- While the Conservation Office expressed concern at the visual impact of the proposed development it was not adequately considered further. The continuous elevation will have an enormous negative visual impact. The assessments made in the VIAR<sup>9</sup> are not accepted and they were not sufficiently analysed by DCC. Visual impact is exacerbated by the building line up against the site boundary with no set back. The Commission is referred to the reason for refusal under ABP-319365-24 at Ashton's which related to, inter alia, the visually obtrusive form of the proposed development.

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<sup>7</sup> The appellant is referring to Table 3 (Performance Criteria in Assessing Proposals for Enhanced Height, Density and Scale) of appendix 3 of the DCDP 2022-2028.

<sup>8</sup> I address this reference to Z9 zoning in paragraph 9.1.7.

<sup>9</sup> The appellant is referring to the applicant's 'Townscape and Visual Impact Assessment' dated April 2025.

- The proposed development will have a profound impact on the biosphere of the river and its banks. The site is in a conservation area but this does not appear to have been considered in the assessment, and neither have the Z9 zoning or policies in chapter 10 relating to the site being part of the Existing Strategic Green and Blue Network. There is no setback to allow the river banks to breathe. Inadequate consideration has been given to policies GI29 (Protect Character of River Corridors) and GI34 (New Development and Public Open Space along River Corridors) of the Plan.

#### Ben McArdle & Dylan Greally

- Issues raised in the appellants' observation to DCC were not addressed.
- The principle of appropriate development on site is supported. Student housing is 'open for consideration' which normally means not permissible. The site should be used for traditional residential accommodation. It is an inefficient use of the land and would be under-utilised during college holidays. Condition 4 (a) permits tourist/visitor use for two month periods effectively allowing an enormous Airbnb type facility. Residential use would minimise noise and nuisance risk associated with PBSA, which is better located on or very near campuses. It will lead to diminution of residential amenity and property devaluation. Communal open space is in close proximity to rear gardens.
- The proposed development comprises overdevelopment of the site in terms of density and the scale of the retained housing, notwithstanding that the site is difficult to masterplan. A seven storey block is due east of the appellants' property, 20 metres from the rear wall. A raised terrace is only 3.5 metres from the rear garden wall. The sheer bulk, oppressiveness, and overbearing nature of the blocks need to be addressed.
- The scale of overlooking/loss of privacy to no. 91 is excessive. Noise risk needs to be addressed. Windows should be of an acoustic standard and preferably sealed shut.
- The Sunlight, Daylight & Shadow Assessment (SDSA) relates to the previously permitted scheme as opposed to the current baseline. The scale and proximity of

the development to the retained houses will severely impact current morning sunlight.

- The conclusions of the LVIA<sup>10</sup> are not agreed with. The development will result in bulky and overscaled development shoehorned into a sensitive riverine site, overwhelming existing houses and the surrounding areas. Its bulk will manifest itself from many angles.
- Inadequate car parking provision on site will result in parking on Clonskeagh Road in spaces available to existing houses.
- There will be major construction impacts on the appellants' house for up to seven years involving demolition, ground level differences, damage, service interruptions, working hours, dust and noise etc. There is serious concern that the combined effect may render the appellants' house uninhabitable during construction. Ongoing liaison with residents is required and a liaison person should be appointed. Condition surveys should be carried out in advance. The cost to property owners of technical advisors should be borne by the developer.
- The Commission is requested to consider a number of amendments to the scheme. Initially this is a refusal and a residential scheme encouraged. If permission is granted then imposition of further restrictions on holiday use, reduction in height to no more than four storeys over podium level, eliminate/obscure overlooking windows, higher screening/landscaping to podium areas, a requirement for the developer to engage with residents in advance of construction with all costs borne by the developer, and appointment of a dedicated project liaison officer.

## **7.2. Applicant's Response**

- 7.2.1. The applicant's response to the grounds of appeal can be summarised as follows, with abbreviated sub-headings as used within the response:

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<sup>10</sup> As per footnote 9.

### *Zoning and related matters*

- DCC accepted PBSA on Z1 zoned land. The DCDP 2022-2028 states that an open for consideration use may be permitted where the planning authority is satisfied that it would, inter alia, be consistent with the proper planning and sustainable development of the area. Non-permissible uses are those not listed. PBSA is clearly a permissible use, accords with the vision for Z1 areas, and aligns with the provisions of chapter 5 (Quality Housing and Sustainable Neighbourhoods) of the Plan. Two examples are provided of PBSA applications granted on Z1 zoned land.
- PBSA is an efficient use of the vacant brownfield land close to UCD. DCDP 2022-2028 criteria in relation to PBSA is satisfied by reason of location, proximity to public transport, zoning, density, and management.
- Condition 4 of the DCC decision restricted use to PBSA except for short-term letting during academic holidays. Circular PL8/2016 APH 2/2016 supports such an approach to PBSA.
- Proper management of the PBSA can minimise any potential negative impacts such as noise, as per chapter 5 of the DCDP 2022-2028. Condition 4 requires on-site management on a 24 hour full-time basis. The submitted Property Management Strategy contains a code of behaviour and conduct. There is no other PBSA within 1km so there will not be an excessive concentration of student accommodation such that it would be detrimental to the maintenance of the community.
- The proposed development would positively add to the area, provides a mix of uses and diversity of activity, and renovates 14 existing houses.

### *Classification under the DCDP 2022-2028 and Compact Settlement Guidelines (2024)*

- The site is best defined as an inner suburb under various references in the DCDP 2022-2028. It is within the 19<sup>th</sup> century built-up area beyond the inner city/canal ring as per figure 11-1 of the Plan and is therefore an inner suburb as defined in the Plan's glossary. As it is within the late 19<sup>th</sup> century built-up area it cannot be considered as outer city or outer suburbs. This would translate to a 'City – Urban Neighbourhood' category in the Compact Settlement Guidelines. In terms of

accessibility, the site is considered to be an 'intermediate location' under the Guidelines.

#### *Scale of development/overdevelopment*

- The site has the potential to deliver significant benefits. The scale and density of development is appropriate and accords with objectives for higher density and increased building heights in suitable locations. The design and scale have sought to respond to and respect the surrounding context.
- The sustainable net 161uph density is higher than that of some of the surrounding residential area. It is appropriate given its brownfield, vacant nature and its location and is suitable for a high-density development and increased building heights. The site is in proximity to public transport. The DCC Planning Report supported the proposed density. The Inspector's report of ABP-300024-17 supported that density. The density aligns with the principles of consolidation, brownfield development, densification, and compact growth.
- The proposed development is five storeys high to the rear of the appellants' property (no. 91), not seven storeys, is set back over 19 metres from that property at ground floor and over 30 metres at first floor level, and includes a heavily landscaped buffer which will be planted with mature trees. The number of windows looking west/to no. 91 are minimised with no window directly across no. 91. The proposed development is set back further than that previously permitted. The appellants purchased the site in late 2024 with the knowledge the extant permission could have been developed. The proposed development represents a better solution in terms of set back and planting/screening.

#### *Building height*

- The DCC Planning Report has assessed the proposal against the relevant criteria for increased building height and the report itself states this. Excerpts are set out.
- The approach to height avoids abrupt transitions in scale and seeks to capitalise on the location adjacent to the Dodder and improve urban legibility. It is justified in the context of appendix 3 table 3 criteria as set out in the applicant's supporting Planning Report. No material contravention arises.

- The Building Height Guidelines (2018) and NPF require increased density, scale, and height and this site is a brownfield site only approx. 3km from the city centre, has supporting services, and public transport infrastructure. The previous permission established the suitability for increased height.

#### *Visual impact*

- Heights have been well considered by an experienced design team. The proposed development provides an appropriate balance of developing lands to an appropriate scale while protecting the character and setting. Any anticipated impacts will become acceptable.
- The proposed development can be accommodated having regard to set backs from boundaries, visual interest along the Dodder, its location, stepping down of heights, and reparation of the Clonskeagh Road streetscape.
- That the proposal diverts from the established townscape character is unavoidable and not undesirable to comply with planning policy.
- Viewpoints 8 and 9 were found to be significant and of moderate significance but the qualitative effect would be neutral as visual amenity would neither be improved nor disimproved. The valued elements in the view i.e. the river and vegetation, would be largely unaffected. It is standard practice to use the lens that was used for the photomontages.

#### *Conservation area, green/blue corridor, and Z9 zoning*

- There is an increased set back from the river than the previous permission. There was extensive engagement and consultation with DCC, IFI, the Development Applications Unit, and the National Parks & Wildlife Service (NPWS). Existing riparian vegetation will be retained in full with no access for residents. The Dodder was assessed within the EclA. Further native planting is to be provided.

#### *Overlooking*

- The proposal provides for appropriate separation distances. The proposed height does not significantly impinge on residential amenity.

### *Daylight/sunlight*

- DCC agreed at pre-planning that the permitted/lapsed development could be used as a baseline providing the cleared site was also assessed.
- Imperatives to achieve sustainable densities, compact urban form, and use of scarce land will always place restrictions on the degree to which it is appropriate to pursue full compliance with BRE Guidelines.
- Impacts to neighbours are within acceptable levels. While there will be some impacts, such a level of impact is inevitable from any suitable redevelopment.

### *Car parking*

- Car parking standards are maximum standards. The quantum of spaces provided are adequate, and will not result in existing spaces being unavailable.

### *Construction phase impacts*

- No works will be carried out which would undermine the foundations of existing houses. Foundations will be protected where necessary. A detailed structural condition survey of adjacent properties will be carried out prior to commencement. A detailed Construction Management Plan will be prepared.

### *Suggested amendments*

- The suggested amendments are unwarranted. A liaison officer will be appointed.

### *Appendices*

- Appendices submitted with the applicant's response include:
  - 'Architectural Response to Third Party Appeals' dated 22<sup>nd</sup> August 2025,
  - an engineering response dated 19<sup>th</sup> August 2025 to the appeal issues,
  - a townscape and visual impact assessment response dated 25<sup>th</sup> August 2025 to the appeal issues, and,
  - an ecological response dated 21<sup>st</sup> August 2025 to the appeal issues.

## **7.3. Planning Authority Response**

7.3.1. The DCC response can be summarised as follows:

- The Commission is requested to uphold the planning authority's decision.
- If permission is granted it is requested that conditions relating to payment of both a development contribution and a bond, social housing, naming and numbering, and a management company are attached.

#### **7.4. Observations**

- 7.4.1. Two observations have been received from Philip O'Reilly with an address in Harold's Cross, and from Michael Roche, President of the UCD Students Union. The main issues raised can be separately summarised as follows:

##### Philip O'Reilly

- The proposed development cannot be considered as being in any way compatible with any principles of proper planning and development.
- No regard or consideration has been given to the existing built environment, the amenity of the river or other environmental amenity, or the established residential amenity.
- The two grounds of appeal are supported.

##### UCD Students Union

- The proposed development responds to a critical shortage of student accommodation. It is one of the few remaining feasible sites for PBSA within walking distance of Belfield. The site's development for student accommodation is an appropriate and much needed use of underutilised land.
- Any legitimate environmental concerns on the riverine setting and biodiversity can be mitigated through modern planning frameworks and approaches.
- In relation to setting a precedent for riverbank development a well-designed PBSA scheme should be seen as positive, adding rather than subtracting from communities. Appropriate densification near educational institutions is desirable.
- PBSA residents are significantly less car dependent than the general population. The location is well served by both active and public transport.
- The Commission is requested to uphold the decision to grant permission.



## **8.0 Environmental Impact Assessment (EIA) Screening**

- 8.1. On foot of EIA preliminary screening (see Appendix 1 (Environmental Impact Assessment (EIA) Pre-Screening)), as the proposed development is of a class of development for the purpose of the EIA Directive and as Schedule 7A information was submitted with the application, a screening determination was required.
- 8.2. The EIA Screening Determination carried out in Appendix 2 (Environmental Impact Assessment (EIA) Screening Determination) concluded that the proposed development would not be likely to have significant effects on the environment, and that an EIAR is not required. This conclusion was reached having regard to:
1. the criteria set out in schedule 7, in particular:
    - (a) the relatively limited nature and scale of the proposed housing/PBSA development, on a brownfield site in an inner suburban location served by public infrastructure,
    - (b) the absence of any significant environmental sensitivity in the vicinity, and,
    - (c) the location of the development outside of any sensitive location specified in article 109 (4)(a) of the Planning & Development Regulations, 2001 (as amended).
  2. the results of other relevant assessments of the effects on the environment submitted by the applicant.
  3. the features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise have been significant effects on the environment.

## **9.0 Planning Assessment**

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

- Zoning

- Density and Building Height
- Site Layout, Design, and Impact on Existing and Future Residential Amenity
- Biodiversity
- Flood Risk
- Conservation Area, Architectural Heritage, and Archaeology
- Objective CUO25 of the Dublin City Development Plan (DCDP) 2022-2028
- Seven-Year Permission
- Planning Authority Conditions

## 9.1. Zoning

- 9.1.1. The site zoning and the appropriateness of the proposed PBSA use at this location has been raised as an issue in the grounds of appeal.
- 9.1.2. The main development site area is zoned 'Z1 – Sustainable Residential Neighbourhoods' with a zoning objective 'To protect, provide and improve residential amenities' (sub-section 14.7.1 of the DCDP 2022-2028). 'Residential', 'community facility', and 'cultural/recreational building' are cited as 'permissible uses' in this zoning whereas 'student accommodation' and 'café/tearoom' are cited as being 'open for consideration'. The grounds of appeal from the adjacent residents' states that 'open for consideration' normally means not permissible. I do not agree. Sub-section 14.3.1 of the Plan states 'An open for consideration use is one which may be permitted where the planning authority is satisfied that the proposed development would be compatible with the overall policies and objectives for the zone, would not have undesirable effects on the permitted uses, and would otherwise be consistent with the proper planning and sustainable development of the area. There will be a presumption against uses not listed under the permissible or open for consideration categories in zones Z1 ...' Therefore, an 'open for consideration' use is clearly acceptable in certain circumstances.
- 9.1.3. The grounds of appeal also consider that the site should be used for traditional residential accommodation and to use it for an alternative use would be an inefficient use of the land at a sustainable location near public transport, services, and facilities.

While houses or apartments would have been an acceptable use on site, as per the permissible uses on Z1 land and the planning history, a planning application is only assessed on the basis of what is proposed. In this case it is primarily PBSA, and it must therefore be considered whether this use is acceptable at this location/zoning, and not whether an alternative use may or may not be more appropriate.

9.1.4. Given the mix of land uses within the vicinity e.g. commercial (public houses, service station, bike shop, food outlets), open space (parkland along the Dodder west of the bridge), residential, medical (Clonskeagh Hospital), and business (Beech Hill Office Campus and Richview Office Park), the proposed PBSA and ancillary café would further increase and contribute to the mix of uses at this location. The proposed PBSA would be located a 500 metres walk from UCD's Richview campus, part of the wider Belfield campus, which would facilitate the primary purpose of PBSA, and it would be consistent with the locational provisions of policies QHSN 44<sup>11</sup> and QHSN45 of the Plan as set out in paragraph 6.12.4. The location of the site within walking distance of Belfield is cited in the observation from the UCD Student Union which supports the proposed development. I do not consider that it would have undue undesirable effects on the permitted uses, and I consider that it would, in principle, be otherwise consistent with the proper planning and sustainable development of the area<sup>12</sup>.

9.1.5. Condition 4 (a) of the DCC decision permits tourist/visitor accommodation within the PBSA during academic holiday periods. This is referred to in the grounds of appeal from the residents of no. 91 Clonskeagh Road as permitting an Air B&B-type facility. I note that this type of use outside of academic periods is allowed for under the National Student Accommodation Strategy (2017). Appendix B to the Strategy states 'A flexible approach should be applied in respect of any planning conditions related to use/occupation of student accommodation. Such an approach would recognise the need to establish a steady rental income for such student accommodation throughout the year in order to ensure the deliverability of development projects from a financing

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<sup>11</sup> Policy QHSN44 seeks to avoid the proliferation and concentration of clusters of PBSA in any area of the city. Sub-section 6.3 of the applicant's 'Student Accommodation Demand, Concentration and Justification Report' dated May 2025 states that 'there are no existing purpose-built student accommodation developments, or proposed or under construction student accommodation developments within a 1km radius'.

<sup>12</sup> The zonings under the DCDP 2022-2028 where student accommodation is a 'permissible use' are 'Z5 – City Centre' and 'Z14 – Strategic Development and Regeneration Areas'. In 'Z15 – Community and Social Infrastructure' areas student accommodation will only be considered in instances where it is related to the primary use of the Z15 lands.

point of view and recognise that student accommodation complexes can play an important role in providing affordable accommodation for tourists and visitors in major urban areas during peak summer demand periods. Therefore, planning authorities should aim to avoid making permissions for student accommodation complexes subject to restrictions on alternative summer or holiday uses ...' This type of short-term use is therefore supported by the government. I note that 'open for consideration' uses on Z1 land in the DCDP 2022-2028 includes relatively relevant uses such as 'bed and breakfast', 'guesthouse', and 'hostel (tourist)'. Therefore, given government support for these short-term non-student accommodation uses and the type of uses that are open for consideration on this zoning in the Plan, I also consider this type of ancillary accommodation to be acceptable within the PBSA during academic holiday periods.

- 9.1.6. The biodiversity/riparian corridor and the works on the opposite side of Clonskeagh Road to the main development site are in an area zoned 'Z9 – Amenity/Open Space Lands/Green Network' with a zoning objective 'To preserve, provide and improve recreational amenity, open space and ecosystem services' (sub-section 14.7.9 of the DCDP 2022-2028). The sub-section states, inter alia, 'The role of Z9 lands in providing ecosystem services, such as improved biodiversity and ecological connectivity, nature-based surface water management, flood attenuation ... is also increasingly being recognised. Generally, the only new development allowed in these areas ... are those associated with the open space use. These uses will be considered on the basis that they would not be detrimental to Z9 zoned lands'. I consider that the maintenance of the riparian/biodiversity corridor and the nature of the works proposed related to flood defence and alleviation and the weir are consistent with the provisions of the Z9 zoning.
- 9.1.7. The Eglinton Residents Association grounds of appeal (page 3) state that the proposed building heights would contravene the Z9 zoning. This may be a typographical error. The grounds do not explain this, and I am unclear as to how the Z9 zoning would be contravened in the context of building height. For clarity, no part of the proposed development's built footprint is proposed within the Z9 zoning, as per the applicant's landscape plan (drawing no. Re. 16-DR-2001).
- 9.1.8. I note that DCC had no issue with the nature of the proposed development in the context of the site zonings and, having regard to the foregoing, I consider that the

principle of development on site is acceptable, subject to the following detailed consideration.

## 9.2. Density and Building Height

- 9.2.1. The issues of density and building height form significant parts of both of the grounds of appeal, as summarised in sub-section 7.1. The appellants consider both of these to be excessive in the context of the site location and the character of the area. The observation received from the UCD Student Union considers that appropriate densification near educational institutions is both desirable and necessary. The DCC Planning Report considered the proposed density to be ‘appropriate for the subject site’ (sub-section 13.2) and indicated no concern in relation to the proposed building heights. The issues of density and building height are inter-related and I consider it appropriate that they are separately assessed under the same broad heading. I note that the location of the subject site cannot easily be categorised into a particular location of the city, such as the city centre, an SDRA<sup>13</sup>, or a strategic development zone.

### Density

#### *Proposed density*

- 9.2.2. The applicant’s Planning Report & Statement of Consistency states that the net density on site is 161uph on a 0.9 hectare net site area<sup>14</sup>, based on a total of 140 residential unit equivalents<sup>15</sup>. This has been calculated as follows.

**Table 9.1 – Applicant’s Density as per Appendix B (Measuring Residential Density) of the Compact Settlement Guidelines (2024)**

<i>Required Information</i>
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Net site area – 0.9 hectares
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<sup>13</sup> Strategic Development and Regeneration Areas

<sup>14</sup> The Planning Report & Statement of Consistency does state on page 57 that the net density is 162uph and on table 5.1 it gives 0.85 hectares as the ‘gross’ site area when explaining how the net density was achieved. It appears that these two figures (162uph and 0.85 hectares) are typographical errors.

<sup>15</sup> Footnote 3 of the Compact Settlement Guidelines (2024) states that ‘When calculating net densities for shared accommodation, such as student housing, four bed spaces shall be the equivalent of one dwelling’

Overall gross floor area (GFA) – 17,662.3sqm
Residential GFA – 17,058.2sqm
Non-residential GFA – 604.1sqm
Number of residential units – 140 (14 houses + 16 apartments + 110 PBSA as per footnote 15)
<i>Calculation</i>
Residential GFA as a portion of development – $17,058.2 / 17,662.3 = 96.6\%$
Site area for density purposes – $0.9 \text{ hectares} \times 96.6\% = 0.87 \text{ hectare}$
Residential density – $140 / 0.87 = 161\text{uph (net)}$

- 9.2.3. I do not consider that 161uph is the applicable density figure for the proposed development. The applicant used a figure of 110 for the PBSA by combining the 133 studio units and 306 clustered bed spaces and dividing this by four as per footnote 15 i.e. ‘when calculating net densities for shared accommodation, such as student housing, four bed spaces shall be the equivalent of one dwelling’. However, the Guidelines offer no clarity as regards the proposed studio units, which are not ‘shared accommodation’ as they are designed to be self-contained units. Therefore, in the absence of clarity on this matter for the purpose of density calculations, I have considered the 133 studio units as individual residential units. As such, the total number of units equates to 239.5 residential units (14 houses, 16 apartments, 133 PBSA studio units, and 306 PBSA clustered bed spaces divided by four (76.5)). This results in a density of 275uph, as per table 9.2.

**Table 9.2 – Applicable Density as per Appendix B (Measuring Residential Density) of the Compact Settlement Guidelines (2024)**

<i>Required Information</i>
Net site area, overall GFA, residential GFA, and non-residential GFA are as per table 9.1.
Number of residential units – 239.5 (14 houses + 16 apartments + 133 PBSA studios + 76.5 (clustered student bed spaces as per footnote 15))

*Calculation*

Residential GFA as a portion of development –  $17,058.2 / 17,662.3 = 96.6\%$

Site area for density purposes –  $0.9 \text{ hectares} \times 96.6\% = 0.87 \text{ hectare}$

Residential density –  $239.5 / 0.87 = 275\text{uph (net)}$

*Dublin City Development Plan (DCDP) 2022-2028*

- 9.2.4. Policy SC11 (Compact Growth) of the Plan states that it is policy 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, and have regard to the development standards within the Plan.
- 9.2.5. Appendix 3 (Achieving Sustainable Compact Growth Policy for Density and Building Height in the City) of the Plan states ‘Appropriate densities are essential to ensure the efficient and effective use of land. It is important to make the best use of the city’s limited land supply in order to meet the need for new homes, jobs and infrastructure required by the city’s growing population. More compact forms of development, ensuring a mix of uses, the containment of ‘urban sprawl’ and achieving social and economic diversity and vitality are critical for the future of the city and addressing climate change’.
- 9.2.6. The grounds of appeal consider that the subject site is an outer suburban location and not an inner suburban location as stated by the applicant. Table 1 of appendix 3 of the Plan outlines general density ranges for various locations in the city. In my opinion, in the context of this table the site is in the ‘outer suburbs’ as it clearly does not comply with any of the other identified locations. The ‘outer suburbs’ has a general net density range of 60-120uph. The proposed density therefore would significantly exceed the density range that would generally be supported at this location. The applicant considers that the site is an ‘inner suburb’. While I agree that this is the case in certain circumstances (see paragraph 9.2.11), for the purpose of table 1 of appendix 3 there

is no density range set out for an 'inner suburb' area. Therefore, the applicable general density range for the subject site in the Plan, as set out in appendix 3, is 60-120uph. Notwithstanding, sub-section 3.2 (Density) of appendix 3 states '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.

- 9.2.7. I have addressed the combined density, height, and scale in table 9.3 and I conclude on foot of this that the proposed development is acceptable at this location. I consider that the proposed development meets all of the identified performance criteria which is required to be satisfied in order for a development of a density, height, and scale in excess of the prevailing character or the general ranges set out in the Plan to be considered acceptable. I am therefore also satisfied that no material contravention issue arises in the context of density or height. Further, I also consider that the provisions of policy SC11 of the Plan, as summarised in paragraph 9.2.4, have been met having regard to the overall content of section 9 of this report.

*Compact Settlement Guidelines (2024)*

- 9.2.8. 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).
- 9.2.9. 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. The applicant considers that the site is within the 'City – Urban Neighbourhoods' area, primarily because the site is identified in figure 11-1 (The Evolution of Dublin) of the Plan as being within the boundary of 'Late 19<sup>th</sup> Century' development and is therefore



within the defined area of an 'inner suburb' as per the Glossary of the Plan<sup>16</sup>. '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'.*

9.2.10. The Eglington Residents Association grounds of appeal state that this is not a 19<sup>th</sup> Century built-up area, and it is on the outer edge of the city council jurisdiction. It is argued that this is an outer suburb, not an inner suburb, and the appropriate category in the Guidelines is 'City – Suburban/Urban Extension', which has a lower density range of 40-80uph.

9.2.11. As set out previously in paragraph 9.2.6, in the context of density and the DCDP 2022-2028, the subject site is an outer suburb area with a general density range of 60-120uph. Notwithstanding, in my view the appropriate density category for the site in the context of the Compact Settlement Guidelines (2024) is the 'City – Urban Neighbourhood' category. The site is therefore aligned with different density categories depending on which document is being considered. In the context of the 'City – Urban Neighbourhood' category, figure 11-1 and the definition of inner suburbs in the Plan are of note in coming to the conclusion that this is the appropriate category. Notwithstanding the nature or pattern of development in the vicinity, or the prevailing building height, the site is clearly within the 'Late 19<sup>th</sup> Century' boundary and therefore within the definition of 'inner suburbs'. The 'City – Suburban/Urban Extension' category definition clearly does not include a site such as the subject site because 'Suburban areas are the lower density car-orientated residential suburbs constructed at the edge

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<sup>16</sup> Inner suburbs are defined as 'Those areas beyond the inner city ... which comprise the 19th century built-up areas, including Drumcondra, north Phibsborough, Rathmines and Ballsbridge'.

of cities in the latter half of the 20th and early 21st century, while urban extension refers to the greenfield lands at the edge of the existing built up footprint that are zoned for residential or mixed-use (including residential) development'. As referenced, development was established in the site area by the late 19<sup>th</sup> century and this is not a greenfield site at the edge of the existing built-up footprint, therefore it does not comply with either a suburban or urban extension definition.

9.2.12. In the context of density, therefore, there are contradictions between both the DCDP 2022-2028 and the Compact Settlement Guidelines (2024). There are also contradictions within the Plan i.e. the site is an outer suburban location for the purpose of identifying a general density range because there is no other category of which it could be considered part. However, the site is consistent with the Plan definition of an 'inner suburb' which means that it is in a 'City – Urban Neighbourhood' for the purpose of the Guidelines. These inconsistencies can lead to confusion. In relation to the grounds of appeal, just because the site location is adjacent to the Dun Laoghaire Rathdown County Council (DLRCC) boundary does not mean that it must therefore automatically be an outer suburb of the city. The DCDP 2022-2028 itself defines this area as an inner suburb. There are significant areas of the City Council area which are outer suburbs<sup>17</sup> but these are primarily in the west and north of the city. The Compact Settlement Guidelines (2024) consider Dublin city as a single city. The fact that the site is adjacent to the boundary of the City Council and DLRCC jurisdictions is of no relevance to the Guidelines because internal city jurisdiction boundaries are not relevant in this context.

9.2.13. The proposed density of 275uph is in excess of the 50-250uph range set out in table 3.1 of the Guidelines. However, I note that this is the range that shall 'generally' be applied in urban neighbourhoods. Therefore, densities in excess of this can be considered. Sub-section 3.3.6 (a) of the Guidelines states that there is a presumption against very high densities that exceed 300uph on a piecemeal basis. This is not exceeded in this case. I would draw the Commission's attention to the fact that, although the PBSA studio units are considered as individual residential units for the purpose of calculating the 275uph density, the minimum floor areas identified for these as per sub-section 15.13.1.1 (Unit Mix) of the DCDP 2022-2028 and the applicant's

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<sup>17</sup> The Plan Glossary defines the 'Outer City' as 'Those areas generally between the 19th century urban areas/villages and the city boundary'.

Housing Quality Assessment, is 25sqm. By contrast, the minimum studio floor area set out in the Apartment Guidelines (2023) is 37sqm. Therefore, when considering the 275uph it should be borne in mind that this density is significantly influenced by considering PBSA studios as single residential units.

9.2.14. Section 3.4 of the Guidelines states that the density ranges should be considered and refined based on ‘consideration of centrality and accessibility [sic] to services and public transport; and considerations of character, amenity and the natural environment ...’ Two steps are outlined for refining density:

- Accessibility to services and public transport (Step 1) – Densities should be at or above the mid-density range at the most central and accessible locations in each area, be closer to the mid-range at intermediate locations, and be below the mid-density range at peripheral locations. There are four different areas identified: high capacity public transport node or interchange, accessible location, intermediate location, or peripheral.

The applicant, in the Planning Report & Statement of Consistency (page 73), considers the site to be in an intermediate location. An intermediate location is defined as:

- Lands within 500-1,000 metres (i.e. 10-12 minute walk) of existing or planned high frequency (i.e. 10 minute peak hour frequency) urban bus services; and,
- Lands within 500 metres (i.e. 6 minute walk) of a reasonably frequent (minimum 15 minute peak hour frequency) urban bus service.

I agree that this is the appropriate category in the context of public transport. The site is approx. 1km walking distance from the N11/Stillorgan Dual Carriageway which has the high frequency bus routes 39A and E2<sup>18</sup>. In addition, the 11 bus route runs along Clonskeagh Road and meets the minimum 15 minute peak hour frequency threshold.

However, the primary purpose of the proposed development is student accommodation. As such, the proposed development is within easy walking distance of UCD, which is likely to be the primary third-level facility attended by future occupants. I consider that proximity to the campus encourages a density at

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<sup>18</sup> As per the publicly available Transport for Ireland website accessed on 21<sup>st</sup> October 2025.

the highest end of the urban neighbourhood density range. In addition, the area is well served by commercial uses such as a service station, cafes, and public houses. In the context of the proximity to UCD and the nature of the primary use of the proposed development, I consider the high density proposed to be acceptable.

- Character, amenity, and the natural environment (Step 2) – New development should respond to the receiving environment in a positive way. Issues referenced can be summarised as:

(a) Evaluate the impact on local character and respond in a positive and proportionate way to the receiving context.

(b) The sensitivity of historic environments (built and landscape heritage) to change.

(c) Evaluate the impact on the environment and on protected habitats and species.

(d) Consider the impact on the amenities of residential properties.

(e) Ensure that water and wastewater networks can service any new development.

These issues are considered in table 9.3 in the context of increased density, scale, and building heights, in sections 8 (Environmental Impact Assessment (EIA) Screening) and 10 (Appropriate Assessment (AA)), and sub-sections 9.3 (Site Layout, Design, and Impact on Existing and Future Residential Amenity) and 9.6 (Conservation Area, Architectural Heritage and Archaeology). Uisce Éireann has not indicated any issue with regard to the water or wastewater networks. I consider that the density proposed is appropriate in the context of the issues set out under (a)-(e), above, and these should be read in conjunction with the table, sections and sub-sections referenced.

### *Conclusion on Density*

- 9.2.15. The proposed net density is 275uph. While the DCDP 2022-2028 sets out a definition of inner suburbs with which the subject site complies, there is no general density range identified for an inner suburb. As a result, the only density range in the Plan that applies to this site, as set out in table 1 of appendix 3, is that for an outer suburb i.e. 60-120uph. The Plan states that densities in excess of the prevailing character for the area, and the general density range, can be permitted where performance criteria are

met. The proposed development has been assessed in detail against the relevant performance criteria and I consider that the proposed development meets all of the performance requirements for increased density, height, and scale, as set out in table 9.3. In addition, the proposed development has been assessed in the context of the Compact Settlement Guidelines (2024) which aligns with the requirements of policy SC10 of the Plan which effectively states that appropriate densities should accord with these Guidelines. The site can be considered an urban neighbourhood under the Guidelines. This has a density range between 50-250uph. The wording of the table allows for higher densities to be considered. The proposed density is significantly influenced by considering PBSA studios as single residential units, even though their floor area is substantially less than would be required in a normal studio apartment considered under the Apartment Guidelines (2023). In the context of this, the primary PBSA nature of the proposed development and its proximity to UCD, its intermediate accessibility in terms of public transport, the extent of and accessibility to ancillary services in the immediate vicinity, and the prevailing character, amenity, and natural environment in the vicinity, I consider the 275uph density proposed to be acceptable. Having regard to the foregoing no material contravention issue arises in the context of density and the DCDP 2022-2028. This 'Density' sub-heading should be read in conjunction with other relevant sections of this report, including the provisions of table 9.3.

### Building Height

#### *Proposed development*

9.2.16. The proposed development includes five blocks, one primarily for residential apartments (Block 1) along Clonskeagh Road and four (Blocks 2-5) for PBSA within the body of the site in a north-south orientation parallel to the Dodder. The proposed heights would be higher than the prevailing heights in the vicinity. The blocks can be described as follows:

- Block 1 – This is a detached block. The elevation to the road is three storeys over lower ground floor/basement with a set back fourth floor. The lower ground level of the site compared to Clonskeagh Road/FFLs of the existing houses results in a five storey height to the rear/east elevation. The south side of the block reduces

to two storeys adjoining the terrace of existing two-storey houses. There is a separation to the north to facilitate vehicular access to the podium level. This block contains the cultural/arts/community floorspace at upper and lower ground floor levels with access directly from Clonskeagh Road.

- Block 2 – This is also a detached block and it is located at the northern end of the main development site. It is a slightly stepped four storeys in the northern and central areas of the footprint and seven storeys in the southern area. The lower ground floor contains student facilities such as a gym, private dining room, and a lounge. The FFL of the lower ground floor is +14.000 whereas the FFL of the upper ground floor and wider podium +17.600.
- Blocks 3 and 4 – These are south of Block 2. The floor plan and elevation drawings show these two blocks in combination. Block 3 is seven storeys with a set back eighth floor. The lower ground floor includes a games room and cinema room. The southern area of the Block 3 footprint has a height of four storeys (including the lower ground floor), linking to Block 4 which is six storeys in height with a set back seventh floor.
- Block 5 – This is attached to the south of Block 4 and is the most southerly of the blocks on site. It is primarily six storeys in height, including the lower ground floor, with an area in the centre of the footprint that is seven storeys.

9.2.17. As a result of the differences in ground levels between Clonskeagh Road/the FFLs of the existing houses, and the main body of the development site, a lower ground floor has been provided. This accommodates car and cycle parking, bin storage, plant, and much of the ancillary student amenities. A podium level is proposed above this which brings the site slightly higher than Clonskeagh Road / the existing FFLs. As a result there are slight differences in how the proposed blocks would present from different vantage points. Block 1 would present as three storey with set back to the road but as five storeys from the PBSA. Block 2 would present as four and seven storeys as it is largely away from the podium, though it is in a relatively narrow area of the northern part of the site. Blocks 3-5 would present as their full heights when viewed from the river/Beech Hill Road to the east, but as a storey less from the west because the lower ground floor is located beneath the podium. For the purpose of considering building heights the full heights of the blocks are considered i.e. five storeys (Block 1), seven

storeys (Blocks 2, 4 and 5), and eight storeys (Block 3), though I note that parts of blocks are lower in places. The proposed development is clearly higher than the existing pattern of development in the immediate vicinity.

*Dublin City Development Plan (DCDP) 2022-2028*

9.2.18. While there are no building height caps set out in the Plan there are a number of relevant policies. 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).

9.2.19. Appendix 3 identifies certain locations 'as generally suitable and appropriate for accommodating a more intensive form of development, including increased height' (sub-section 4.1). The site location is not one of these locations which are e.g. city centre, SDRAs, key urban villages, or public transport corridors. I note that one of the key locations is identified as 'City Centre and within the Canal Ring (inner suburbs)'. The site is in an 'inner suburb' location as set out under the 'Density' sub-heading. However, in this case I do not consider that it can be construed as being a 'city centre/within the canal' location for the purpose of building height. Notwithstanding that the site is not in one of the locations within which 'buildings of between 5 and 8 storeys ... is promoted', the appendix states 'Outside of the canal ring, in the suburban areas of the city, in accordance with the guidelines, heights of 3 to 4 storeys will be promoted as the minimum. Greater heights will be considered on a case by case basis, having regard in particular to the prevailing site context and character, physical and social infrastructure capacity, public transport capacity and compliance with all of the

performance criteria set out in Table 3'. Consequently, any development on site would be expected to result in three to four storeys minimum, with greater heights considered on a case by case basis having regard to table 3 of the appendix.

- 9.2.20. Table 3 (Performance Criteria in Assessing Proposals for Enhanced Height, Density and Scale) of the appendix sets out 46 issues to be considered under ten objectives in assessing urban schemes of enhanced density and scale. The objectives refer to, inter alia, urban design principles such as promoting a sense of place and addressing the site context, providing appropriate legibility, continuity, enclosure of spaces, connectivity, attractive spaces, mixed uses and activities, and sustainable buildings. These objectives generally overlap with criteria for the assessment of increased building heights in the Building Heights Guidelines (2018) and address the need to consider the layout and design of a development. I set out and address these objectives in the following table, which relates to both increased building height and density<sup>19</sup>.

**Table 9.3 – Performance Criteria in Assessing Proposals for Enhanced Height, Density and Scale – Appendix 3 of the DCDP 2022-2028**

	Objective	Assessment
1	To promote development with a sense of place and character	<p>The proposed development would be a significant departure in scale from the existing pattern of development in the immediate vicinity. However, the retention and refurbishment of the single- and two-storey terraced houses along Clonskeagh Road is a positive element of the development, retaining parts of the previous streetscape.</p> <p>Its height, scale, and PBSA use would give the site a distinctive character in the context of the surrounding area and would strengthen the urban character of the area, particularly given the site has been vacant for a number of years and contains hoarding along a stretch of Clonskeagh Road. It is located in close proximity to a wide range of other, complementary uses such as commercial, business, open</p>

<sup>19</sup> The applicant carried out a similar exercise as appendix 2 to the Planning Report & Statement of Consistency and the objectives were considered in sub-section 13.2 of the DCC Planning Report.



		<p>space, and educational (specifically UCD). It would provide an active community/arts/cultural unit frontage onto the road, and also a café.</p> <p>Heights vary throughout the development, for example presenting as three storey with a set back to Clonskeagh Road (Block 1) with a reduction to two storeys to the adjoining house, four storeys in the northern end of Block 2, and a variety of heights in Blocks 3-5. Blocks 1 and 2 are detached. While it would comprise a significant length of built form it is largely hidden from the public realm from the west because of existing/retained built fabric and would only be visible at a relative distance from the east because of the river. Various photomontages, CGIs, and drawings are submitted with the application illustrating the impact the proposed development would have.</p> <p>Overall, I consider the proposed development would have its own sense of place and character and be distinctive in the area.</p>
2	To provide appropriate legibility	<p>The enhanced density and height proposed would positively contribute to the legibility of the area, increasing placemaking, on a site that has been vacant for a number of years. It would more reflect its inner suburb location in the context of density.</p> <p>There would be limited impact on the function of the street, however the streetscape would be improved by the retention and enhancement of the terraced houses and the provision of an apartment building plus community/arts/cultural floorspace along a section of the road which is currently hoarded off. Parts of the site can be used by members of the public.</p> <p>There is no permeability proposed to adjacent land which is not a concern given the nature of the site (narrow and with</p>

		<p>no reasonable or useful possibility for permeability) and its location along the river where a riparian corridor is to be retained.</p> <p>I consider appropriate legibility would result from the proposed development.</p>
<b>3</b>	To provide appropriate continuity and enclosure of streets and spaces	<p>There is limited public spaces on site and no permeability, though that it not an issue given the nature and location of the site.</p> <p>Notwithstanding, the urban context of Clonskeagh Road would be enhanced both by the retention and enhancement of the terraced houses, inclusion of Block 1 with its community/arts/cultural floorspace, and the greater height and density to the rear of the site. The development would reinforce and enhance the existing pattern of development along Clonskeagh Road while increasing activity, animation, and visual interest along the roadside frontage.</p> <p>There would be limited vehicular activity associated with the development with car parking located at lower ground level.</p> <p>Communal spaces are adequately overlooked and would receive adequate sunlight. Open space associated with the community/arts/cultural space is adjacent to the internal floorspace.</p> <p>The footprints of Blocks 2-5 parallel the river. The proposed development would provide a built form with a range of heights along the River Dodder, while maintaining the required set back. It would result in a significant alteration to the existing backdrop of the river when viewed from Beech Hill Road, though I consider it to be acceptable in the context that this is an inner suburb area. I also note the absence of sensitive receptors on the opposite side of the river.</p>

		<p>One of the issues set out in sub-section 3.2 of the Building Height Guidelines (2018) is that ‘The proposal enhances the urban design context for ... inland waterway/marine frontage, thereby enabling additional height in development form to be favourably considered in terms of enhancing a sense of scale and enclosure ...’ Increased height at this riverine location is therefore supported by the Guidelines. There is an onus on planning authorities to ensure the appropriate development of vacant brownfield sites such as this and, although the proposed density is a high density at this location, in my opinion the character of existing development on Clonskeagh Road would not be unduly affected.</p> <p>I consider that Clonskeagh Road and the River Dodder are suitably addressed.</p>
4	To provide well connected, high quality and active public and communal spaces	<p>Given the nature of the PBSA development there is no specific public open space areas provided, though the community/arts/cultural space and café would be available to the public. Sub-section 15.13.1 (Student Accommodation) of the DCDP states that open space provision can be tailored to reflect the nature of the proposed use. There would be no access to the riparian corridor which would be retained and maintained for biodiversity. Appendix 2 of the applicant’s Planning Report &amp; Statement of Consistency states that ‘The proposed development provides for public realm improvements on Clonskeagh Road and has been designed to integrate with the Sandyford to Clonskeagh to Charlemont Street Pedestrian and Cyclist Improvement Scheme (SC2C)’.</p> <p>There are a variety of communal spaces provided including at lower ground level, podium level (linear courtyard), and the roof of Block 1, which are subject of passive surveillance and adequate daylight and sunlight. The application was</p>

		<p>supported by a microclimate report dated 31<sup>st</sup> March 2025 which concluded that ‘the proposed development would have no significant effects with regard to microclimate’.</p> <p>I consider that the proposed development would result in acceptable communal spaces.</p>
<b>5</b>	To provide high quality, attractive and useable private spaces	Private open space provision for the houses and apartments are acceptable.
<b>6</b>	To promote mix of use and diversity of activities	<p>I consider that, notwithstanding the primary purpose of the proposed development is PBSA, a reasonable mix of residential typology is proposed. A number of houses are to be retained and improved, 16 apartments provided, as well as a community/arts/cultural unit and a cafe which can be accessed by member of the public. The community/arts/cultural unit addresses Clonskeagh Road which would increase footfall and activity along this part of Clonskeagh Road.</p> <p>The proposed uses would complement and add to the wide range of different uses in the near vicinity such as commercial, retail, business, medical, residential, and open space. The proposed development is consistent with the locational requirements of PBSA as set out in the DCDP 2022-2028.</p> <p>I consider the proposed development would provide a good mix of uses in itself, and would benefit from and contribute to the wide mix of uses in the near vicinity.</p>
<b>7</b>	To ensure high quality and environmentally	The proposed development is acceptable in terms of daylight and sunlight access and microclimate. The required number

	sustainable buildings	<p>of apartments are dual aspect. 14 houses are to be retained and renovated as part of the proposed development.</p> <p>Works are proposed as part of the proposed development in relation to flood risk, as set out in sub-section 9.5. There is an existing flood wall on site.</p> <p>A number of other relevant documents were also submitted with the application such as:</p> <ul style="list-style-type: none"> <li>• a 'Car Charging Strategy' which, inter alia, proposes 17 of the 33 car parking spaces to be EV charging points.</li> <li>• a 'Climate Action, Sustainability, &amp; Energy Statement' which states, inter alia, that the proposed development aims to maximise passive building qualities to reduce energy demand and to deliver a future proofed high efficiency district heating system. The proposed development will achieve Nearly Zero Energy Building (NZEB) compliance.</li> <li>• an 'Energy Statement' which states, inter alia, that the blocks will have a Building Energy Rating (BER) of A2/A3.</li> <li>• an 'Engineering Assessment' which includes, in relation to surface water, green/blue roofing, bioretention planters, tree pits, and a dry detention basin with underlying storage.</li> </ul> <p>I am satisfied that, should permission be granted, the proposed development would result in high quality and environmentally sustainable buildings including in relation to surface water management.</p>
8	To secure sustainable density, intensity at locations of	<p>I have assessed the proposed 275uph density in detail in the context of the site location under the previous subheading. I am satisfied that the density is an appropriate high density within the context of a 50-250uph density range in this inner</p>

	<p>high accessibility</p>	<p>suburban area, as defined by the DCDP 2022-2028, which has intermediate accessibility to public transport.</p> <p>The proposed heights of Blocks 2-5, while substantially greater than the heights of existing development along Clonskeagh Road, are of importance in allowing the site to achieve what is a relatively modest density in the context of the applicable density range. The development is lower along Clonskeagh Road i.e. retention of the houses, provision of the community/arts/cultural space, and the requirement for Block 1 to sit comfortably along the streetscape. Therefore the greater density must be provided towards the rear of the site where the river allows greater heights as there is no built fabric to the east that would require lower heights.</p> <p>Although the site is irregularly shaped, it has a reasonable area of 0.9 hectares net. This allows for a greater range of heights to be accommodated while allowing for reductions toward sensitive site edges.</p> <p>This is a vacant, brownfield site within the built-up urban area. There is an onus on planning authorities to sustainably develop these types of areas. The proposed density is entirely appropriate at this location and the proposed heights allow the density to be achieved without having an undue adverse impact on properties in the vicinity. Any development of scale would have a significant impact, particularly when the subject site has been effectively vacant for a number of years.</p> <p>The existing or established character cannot be maintained in all circumstances as this would just reinforce the problem of low density and increased urban sprawl. In brownfield sites such as this an increase in density is required. The proposed density in this case is high-range for the site location. The</p>
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		<p>proposed development would contribute to compact growth at an appropriate location and it would be consistent with CAP 2025, the NPF, Compact Settlement Guidelines (2024), Building Height Guidelines (2018), and the DCDP 2022-2028.</p> <p>I am satisfied that the proposed height of up to eight storeys, which is double the minimum height that would be expected on this site, would be acceptable. I also note that this height only applies to one part of one block with the significant majority of Blocks 2-5 being less than double the height of what effectively would be required on site in any future development.</p>
9	To protect historic environments from insensitive development	<p>There are no protected structures on site though the site is located within a conservation area.</p> <p>The application documentation includes an Architectural Heritage Impact Assessment and an Archaeological Impact Assessment Report.</p> <p>These issues have been addressed in sub-section 9.6 and I conclude that the proposed development would not have an undue adverse impact on archaeology, the conservation area status, or architectural heritage. I am satisfied that there would be no undue adverse impact on the historic environment.</p>
10	To ensure appropriate management and maintenance	<p>A number of relevant operational stage documents were submitted with the application such as a Property Management Strategy Report, a Service Delivery and Access Strategy, an Operational Waste Management Plan, a Building Lifecycle Report, and a Mobility Management and Travel Plan, which would ensure appropriate management and maintenance.</p>

		<p>Documents relating to the construction phase were also submitted and these can again be attached as standard compliance conditions e.g. CEMP, Resource &amp; Waste Management Plan, and a Construction Management Plan.</p> <p>I consider the proposed development would be appropriately managed and maintained.</p>
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9.2.23. Having regard to table 9.3, above, I consider that the proposed development would be acceptable in terms of enhanced building height, density, and scale in the context of table 3 of appendix 3 of the DCDP 2022-2028.

9.2.24. The appendix also identifies key criteria which all proposals for increased urban scale and height must demonstrate. These criteria, with my comments on same, are:

- 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 – Although the development only provides for 30 houses and apartments, 14 of which are renovated houses, the primary purpose of the proposed development is PBSA which are not ‘homes’ in the normal sense. PBSA is supported in the DCDP 2022-2028 and it is an important accommodation typology at a certain stage in life for many. The provision of 439 bed spaces would result in fewer students utilising houses or apartments, allowing these to be occupied by non-students as homes. The proposed development would result in the regeneration of a relatively substantial brownfield former industrial site within the built-up footprint of the city.
- Proximity to high quality public transport connectivity, including key public transport interchanges or nodes – As set out under the ‘Density’ sub-heading, the site is in an intermediate location in relation to public transport.
- Proximity to a range of employment, services and facilities – The site is very well served by, inter alia, commercial properties (including public houses, a café, and a service station), business parks (Beech Hill Office Campus and Richview Office Park), a medical campus (Clonskeagh Hospital), and open space areas along the Dodder, all within approx. 100 metres of the site boundary. UCD (Richview, part



of the wider Belfield campus) is 500 metres walk from the site, a very important aspect of the suitability of the subject site for the proposed PBSA use.

- Provision of adequate social and community infrastructure – In addition to the existing infrastructure the proposed development includes a café and a community/arts/cultural space together with a range of student facilities within the blocks.
- The availability of good walking, cycling and public transport infrastructure – There are footpaths throughout the area (including parkland adjacent to the Dodder) with a cycle track along Clonskeagh Road. The site is in an intermediate location as regards public transport accessibility.
- Appropriate mix of uses, housing typologies and tenures – The proposed development is primarily for PBSA which is supported at locations such as this in the DCDP 2022-2028. The observation received from UCD Student Union supports this PBSA development and states that there is a critical shortage of same in the Dublin area, and in particular around UCD. However, other typologies are also provided i.e. houses and apartments.
- The provision of high quality public open space and public amenities – Given the nature of the proposed PBSA development there is limited public accessibility. Sub-section 15.13.1 (Student Accommodation) of the DCDP states that open space provision can be tailored to reflect the nature of the proposed use. Adequate communal spaces are provided for. A riparian/biodiversity corridor is to be maintained along the eastern site boundary but this area would not be publicly accessible.
- The resilience of the location from a public access and egress perspective in the event of a major weather or emergency or other incidents – Works in relation to flood risk forms part of the proposed development, as per sub-section 9.5. The proposed development passes the justification test of the Planning System and Flood Risk Management Guidelines for Planning Authorities (2009). Section 7 of the applicant's Service Delivery and Access Strategy relates to fire tender access. There are two separate pedestrian accesses from the main development site to Clonskeagh Road.

- That the ecological and environmental sensitivities of the receiving environments have been adequately assessed and addressed – These have been addressed in section 8 (Environmental Impact Assessment (EIA) Screening), section 10 (Appropriate Assessment (AA)), and section 11 (Water Framework Directive (WFD)) of this report, as well as sub-section 9.4 (Biodiversity).
- Appropriate design response that considers the characteristics of the site, any development constraints and prevailing character – The proposed density and building height are main issues cited in the grounds of appeal. While the proposed development is substantially larger than the characteristics of the area immediately adjoining the site I consider that the design response is appropriate. Existing terraced houses are being retained and renovated which reinforces the streetscape along Clonskeagh Road. Block 1 sits comfortably within the streetscape. The larger Blocks 2-5 are located to the rear of the site along the river. A 10 metres set back from the river is retained. The heights of the blocks vary along the overall elevation, but the river frontage allows for higher development along this boundary. Issues such as design, materials, open space, residential standards, and impact on adjoining properties are separately addressed within this report (sub-section 9.3).
- Adequate infrastructural capacity – No concern has been raised by either DCC or Uisce Éireann.

9.2.25. Having regard to the foregoing bullet points I consider that the proposed development is consistent with the key criteria which all proposals for increased urban scale and height must demonstrate, as per page 220 (appendix 3) to the DCDP 2022-2028.

9.2.26. Both policy SC17 and appendix 3 require a masterplan for any site over 0.5 hectares. 'The masterplan should provide a vision for the development of the entire site area, including how new buildings, streets, blocks, pedestrian and cycling routes, parks, and publically [sic] accessible and private open spaces will fit within the existing and planned context. It should include urban design studies to inform the architectural approach and to allow for the early testing of open space quantum, sunlight, daylight, visual impact and wind effects' (section 4.1 of the appendix).

9.2.27. The application site is a stand-alone site. There is a river along the eastern and southern boundaries and Clonskeagh Road along the western boundary. Properties

along Clonskeagh Road that do not form part of the application site are long established commercial and residential properties and to the north of the site the area between the river and road is very narrow with long established commercial and residential properties also in that location. Therefore there is negligible requirement for a wider masterplan. Notwithstanding, a number of relevant documents have been submitted with the application such as an Architectural Design Statement (ADS), a Townscape and Visual Impact Assessment (TVIA), a landscaping Design Rationale, a Sunlight, Daylight & Shadow Assessment (SDSA), a microclimate report, and Verified Photomontages and CGI Views. I consider that masterplan-type detail is adequately provided for in the application.

#### *Conclusion on building height*

- 9.2.28. The DCDP 2022-2028 does not provide for building height caps and therefore no material contravention of the Plan in this regard would occur. However, the Plan sets out a number of issues to be taken into consideration in assessing increased building heights. Although the proposed blocks, Blocks 2-5 in particular, are significantly taller than the existing properties along Clonskeagh Road bounding the main development site area, I consider that the heights can be accommodated on site. The net site area at 0.9 hectares allows for these blocks to be set back into the site therefore not dominating the Clonskeagh Road frontage which would be largely retained in its current form. The river environment to the east, which Blocks 2-5 parallel, allows a greater height at this location. The required set back from the river is provided. While these heights would result in a significant change in backdrop when viewed from the east I consider it to be reflective of the requirement for compact growth on a vacant brownfield former industrial site within the urban footprint. I consider the proposed heights are acceptable at this location.

#### Conclusion

- 9.2.29. On foot of my assessment of the proposed development against the performance criteria set out in table 3 of appendix 3 of the DCDP 2022-2028, I consider that the proposed density of 275uph is an acceptable density for this site which would comply with the provisions of the Plan for development in excess of the general density range set out for an outer suburban location. The development meets all the relevant

performance criteria set out under table 3 when assessing proposals for enhanced height, density, and scale. I also consider that the proposed density is acceptable under the provisions of the Compact Settlement Guidelines (2024). In addition, I consider that the proposed heights of up to a maximum eight storeys can be accommodated on site without undue adverse impact on the character of the area. The combination of the proposed density and building heights, notwithstanding that they are greater than the prevailing pattern of development, would be consistent with the planning framework requirements to appropriately develop vacant, brownfield, former industrial land within the urban footprint, and it would contribute to compact growth.

### **9.3. Site Layout, Design, and Impact on Existing and Future Residential Amenity**

- 9.3.1. The grounds of appeal raise issues in relation to the scale and location of Blocks 2-5, visual impact, shadowing and overbearing impact, and overlooking potential. The application is accompanied by a number of supporting documents such as an Architectural Design Statement (ADS), a Townscape and Visual Impact Assessment (TVIA), a landscaping Design Report, a Sunlight, Daylight & Shadow Assessment, Verified Photomontages and CGI Views, a Schedule of Accommodation and Areas, a Housing Quality Assessment, and a microclimate report. The proposed development can be assessed under the following headings.

#### **Site Layout**

- 9.3.2. The main body of the site is irregularly shaped and relatively narrow with a north-south orientation. It is relatively flat with a ground level below that of Clonskeagh Road and the FFLs of properties addressing Clonskeagh Road. A lower ground floor area is proposed for car and bicycle parking, plant, and bin storage and there are some student facilities at this level. There is a podium level above which allows direct access to the upper ground floor levels of Blocks 2-5. This podium reduces the overall scale of the blocks by a storey when viewed from the west, however the full extent of the block heights, up to eight storeys, is visible from the east/Beech Hill Road. Although they are on the lower ground levels, some student facilities in Blocks 2 and 3 e.g. gym, library, games room, and cinema, would have views across the river. A 10 metres set back from the river would not be publicly accessible.

- 9.3.3. Fourteen single and two-storey terraced houses along Clonskeagh Road form part of the application site. These are to be renovated and extended. The four single-storey houses are split-level when viewed from the rear. Block 1 containing 16 apartments and a community/arts/cultural space is to infill a gap in the streetscape. These elements largely retain the character of the existing streetscape. Blocks 2-5 to the east of the site, while obviously visible from certain vantage points, would not dominate the streetscape at street/road level. The ADS states that the gap between Blocks 2 and 3 allows for visual permeability between the main site entrance and the Dodder. Communal spaces are largely in a central north-south area between the properties addressing Clonskeagh Road and Blocks 2-5.
- 9.3.4. The site layout, given its shape and constraints, is reasonably well laid out in that the lower-rise built elements are to the roadside and the higher elements are parallel to the river. Permeability is provided at two locations from the site to Clonskeagh Road with no gates proposed. Given the nature of the site and the adjoining properties there is no reasonable possibility of additional permeability and no requirement for same.
- 9.3.5. I consider the site layout to be acceptable.

#### Visual Impact

- 9.3.6. The Eglinton Residents Association refer to the visual impact of the proposed development, including its position and the precedent the proposed development would set for development along the river. The grounds of appeal from the owners of 91 Clonskeagh Road make similar points and consider the proposed development does not respect the existing urban grain of the area.
- 9.3.7. The site is a brownfield site in the built-up urban area which has not been in active use for a number of years. There is an onus and obligation on the relevant planning authority to ensure that any development of this brownfield site is in line with compact growth principles. I have concluded in sub-section 9.2 that the proposed density, scale, and building heights are acceptable at this location. The presence of the river along the site boundary is one of the main factors in enabling these heights to be provided. Such a location is specifically cited in sub-section 3.2 of the Building Height Guidelines (2018) as enabling additional height to be considered 'in terms of enhancing a sense of scale and enclosure ...' The proposed height provides a backdrop to the river.

- 9.3.8. The change in the character of the site would clearly be substantial. However, I consider this to be inevitable with any appropriately scaled development. I acknowledge that significant change would occur, including on the backdrop of the river when viewed from Beech Hill Road. The river corridor itself would not be altered (apart from works to the weir), which is the currently the main item of visual interest from this viewpoint, but the backdrop would dramatically change. However, I do not consider that this change would be negative taking into consideration the urban context of the area and the requirement for compact growth.
- 9.3.9. There is a required set back from river corridors of 10-15 metres (policy SI10 of the DCDP 2022-2028). The proposed development provides a 10 metres set back and therefore it complies with the requirement of the Plan. IFI did not express any concern with this set back in its report.
- 9.3.10. I do not agree that the proposed development would set a precedent for this type of development. Every application is assessed on its own merits. Notwithstanding, in the vicinity of the site there is limited potential for a development of this scale given that the area west of Clonskeagh Bridge along both sides of the river is zoned for open space<sup>20</sup> and to the east there are a number of roads e.g. Beech Hill Road, Beaver Row, and Brookdale, and existing established residential development.
- 9.3.11. While I consider that a significant visual impact/change would occur, I do not consider that it would be negative. I consider that it would reflect the urban nature of the location and the density and building heights proposed are acceptable and would contribute to compact growth.

#### Public and Communal Open Space

- 9.3.12. Sub-section 15.13.1 of the DCDP 2022-2028 states that open space provision can be tailored to reflect the nature of the proposed use. It is stated that the publicly inaccessible open space area along the riparian corridor is 2,978sqm. No other public open space is proposed on site, though communal areas e.g. the podium, are publicly accessible to, for example, access the proposed café. I note that no public open space

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<sup>20</sup> Zone Z9 (Amenity/Open Space Lands/Green Network) in the DCDP 2022-2028 and Objective F ('To preserve and provide for open space with ancillary active recreational amenities') under the Dun Laoghaire Rathdown County Development Plan 2022-2028.

was provided as part of the PBSA developments referenced on page 16 of the applicant's response to the grounds of appeal (P.A. Reg. Ref. LRD6054/24-S3 and P.A. Reg. Refs. 3979/19 / 5041/22). Having regard to the provisions of sub-section 15.13.1, I consider that provision of communal space only is acceptable for the proposed development. However, given that 16 apartments are also proposed, I consider it appropriate that a contribution in lieu of open space is levied for these units, as provided for in policy GI26 (Securing Acquisition of Additional Public Open Space) and sub-section 15.8.7 (Financial Contributions in Lieu of Open Space) of the Plan. The DCC Development Contribution Scheme 2023-2026 cites a financial contribution figure of €5,000 per unit. I do not consider that a contribution is required for the houses because these already exist.

- 9.3.13. There are a variety of communal spaces proposed: a garden at lower ground level and a roof terrace for Block 1, and a landscaped podium space and two gardens at lower ground level for the PBSA. There are also some smaller, less useable open spaces at lower ground floor level.
- 9.3.14. The Block 1 communal space comprises 135.6sqm at lower ground level and 166.9sqm at the roof level, 302.5sqm in total. The communal amenity space figures in appendix 1 to the Apartment Guidelines (2023) would require 101sqm to be provided so almost three times the required communal space is provided for the apartments, and I consider it to be of reasonable quality and useability and would provide residents with a choice of locations.
- 9.3.15. 1,568sqm is cited as the provision for PBSA external communal space. Two lower ground level spaces of 533.4sqm (95.9sqm + 437.5sqm) plus the podium area of 1,034.7sqm. Table 15-8 of the DCDP 2022-2028 requires PBSA to have an indoor/outdoor communal requirement of 5-7sqm per bedspace. Page 82 of the ADS states that 5.8sqm has been provided both internally (968.9sqm) and externally, thereby satisfying the Plan requirement. The podium area would have planting, seating, and paving and would be used for permeability through the site. The spaces would be well overlooked and would provide users with a choice of locations.
- 9.3.16. In general I consider that the overall open space provision is acceptable in terms of the areas provided, their locations on site, and that they are appropriately overlooked in the interest of residential amenity.

## Building Designs and Residential Amenity

### *Houses*

- 9.3.17. 14 currently unoccupied<sup>21</sup> houses form part of the site along Clonskeagh Road. The four northerly single-storey (to the road) terraced houses are on Clonskeagh Terrace while the other ten, to the south of Block 1, were Pembroke Urban District Council (UDC) houses. The proposed extensions to these are externally finished in pale brick and are 'simple contemporary volumes contrasting with the historical facades' (page 58 of the ADS).
- 9.3.18. The 14 houses would be renovated into one 1-bed, nine 2-bed, and four 3-bed houses. All bedrooms would be on the upper level. The four Clonskeagh Terrace houses are to be 3-bed units with an extension to the rear at lower ground level and a smaller extension above at upper ground level. 'Poor quality' rear extensions would be removed from the ten Pembroke UDC houses with two-storey extensions constructed. Original features would be retained where possible according to page 93 of the ADS.
- 9.3.19. Private open space areas meet the requirements of SPPR 2 of the Compact Settlement Guidelines (2024).
- 9.3.20. I consider the alterations and extensions to the houses would be acceptable and their retention is a positive element of the proposed development which would contribute to the streetscape.

### *Apartment Block 1*

- 9.3.21. The front/west elevation is red brick which is consistent with the line of houses to either side. The fourth floor is set back and it is two storeys in height adjoining the terrace of two-storey houses to the south. The community/arts/cultural space would provide activity along the road/footpath. The eastern elevation facing the PBSA is paler brick. The block is a contemporary addition to the streetscape presenting as three storeys with a set back fourth floor to the street and as a five storey structure to the interior of the site. I consider that it sits comfortably along the streetscape, would not result in an unduly visually incongruous or obtrusive presence, and would appropriately increase the urban scale at this location.

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<sup>21</sup> According to page 65 of the ADS.



9.3.22. In relation to the specific planning policy requirements (SPPRs) of the Apartment Guidelines (2023)<sup>22</sup>:

- SPPR 1 – Five of the 16 units (31.25%) are studio/1-beds and only one of these is a studio (6.25%) so the mix parameters are in line with the SPPR.
- SPPR 2 – This does not apply.
- SPPR 3 – Minimum floor areas are achieved.
- SPPR 4 – 10 of the 16 units (62.5%) are dual aspect exceeding the minimum requirement.
- SPPR 5 – Lower and upper ground floor levels are in excess of 2.7 metres from floor to ceiling.
- SPPR 6 – The number of apartments per floor per core does not exceed 12.
- SPPR 7 – This does not apply.

9.3.23. The HQA document shows that floor area requirements of the Guidelines are achieved.

9.3.24. I consider that the proposed apartment building would be acceptable at this location, would infill an existing gap and provide additional activity in the streetscape, and would not have an undue visual impact.

#### *PBSA Blocks 2-5*

9.3.25. The ADS states that on foot of the LRD Opinion the elevations of these blocks were revised to emphasise the differences between the various facades. It states that heights, width, and orientation of the volumes vary, as does elevational detail and the colours of the brick cladding, windows, and perforated screens, creating a ‘subtly varied urban landscape’. Brick is used because of its prevalence on Clonskeagh Road, among other reasons.

9.3.26. I consider the block elevations to be acceptable at this location. I consider them to be of visual interest and the variation in height and design features significantly reduces the visual monotony of what are substantial structures.

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<sup>22</sup> As per paragraph 5.13 of the Guidelines, they do not apply to student accommodation.

9.3.27. There are clusters of six, seven, and eight en-suite bedrooms as well as studio units. Kitchen/dining/living (KDL) areas are provided at rates compliant with table 15-8 of the DCDP 2022-2028. Studio units also comply with floor area requirements in the Plan.

#### Car and Bicycle Parking

##### *Car parking*

9.3.28. The grounds of appeal from the owners of 91 Clonskeagh Road consider that car parking provision is not adequate.

**Table 9.4 – Proposed Car Parking**

Proposed development	Maximum car parking standards under DCDP 2022-2028	Maximum car parking standards under the Compact Settlement Guidelines (2024)	Proposed
14 Houses	1 per dwelling (14)	2 per dwelling (28)	0
16 Apartments	1 per dwelling (16)	2 per dwelling (28)	16
439 PBSA bed spaces	1 per 20 bed spaces (22)	None cited	14 plus a car share
Cultural/arts/community	1 per 275sqm GFA (2.2)	None cited	2

9.3.29. The site is in Zone 2 for car parking purposes as per map J of the DCDP 2022-2028. Table 2 of appendix 5 (Transport and Mobility: Technical Requirements) of the Plan sets out maximum car parking standards. For houses the maximum standard is one space. However, as the, currently unoccupied, houses subject of the application are existing and they have historically utilised on-street parking, which would remain, I do not consider additional car parking is required for these. Nine of the ten two-bed Pembroke UDC houses would remain as two-bed houses with one reducing to a one-bed. The four Clonskeagh Terrace houses would increase from two-to three bed units. Therefore, any increase in car parking demand would be limited.

9.3.30. For apartments the maximum standard is also one space per unit. 16 spaces are provided. A maximum of one space per 20 student accommodation bedspaces is set out. This would result in a maximum provision of 22 spaces. 14 are proposed, plus a car sharing space. Therefore the provision is below the maximum but, given the intermediate location in the context of public transportation and the proximity to UCD, I have no concern with car parking provision. A maximum of one space per 275sqm gross floor area is set out for a community centre. As two spaces are proposed I consider this to be acceptable. Section 5.0 of appendix 5 of the Plan requires a minimum of 50% of all car parking spaces in new developments to be equipped with fully functional EV charging points. Page 3 of the applicant's Car Charging Strategy states that there are 17 of these.

9.3.31. SPPR 3 of the Compact Settlement Guidelines (2024) states that car parking provision should be minimised, substantially reduced or wholly eliminated in urban neighbourhoods, though in intermediate areas the maximum rate of car parking for residential developments is two spaces.

9.3.32. Having regard to the foregoing I consider the car parking provision to be acceptable.

#### *Bicycle parking*

9.3.33. **Table 9.5 – Proposed Bicycle Parking**

Proposed development	Bicycle parking standards under DCDP 2022-2028	Bicycle parking standards under the Compact Settlement Guidelines (2024)	Proposed
14 Houses	1 per house and 1 visitor space per five houses (16.8)	With no ground level open space or with smaller terraces, a general minimum of 1 space per bedroom plus visitor spaces.	None specifically
16 Apartments	1 space per bedroom and 1 visitor space per two apartments (25 + 8)	As above	28 + 8

439 PBSA bed spaces	1 per resident and 1 visitor space per 5/10 residents (439 + 44/88)	None cited	440 + 88
Cultural/arts/community	1 per 100sqm GFA (6)	None cited	11

9.3.34. Table 1 of appendix 5 of the DCDP 2022-2028 requires one space per house and one visitor space per five houses. However, for the same reason as car parking, I do not consider this requirement applies. For apartments the Plan requires one bicycle parking space per bedroom and one visitor space per two apartments. This is 25 resident and eight visitor spaces. 28 resident and eight visitor spaces are provided. A community centre requires one space per 100sqm gross floor area i.e. six spaces. Four spaces are provided at lower ground floor and seven at upper ground floor level.

9.3.35. Sub-section 15.13.1.4 of the DCDP 2022-2028 states that PBSA bicycle parking at a minimum of one space per resident and one surface visitor space per ten residents should be provided<sup>23</sup>. This is 439 resident and 43/44 visitor spaces. 440 resident spaces are provided. 88 visitor spaces are provided in line with the more stringent requirement of table 1.

9.3.36. All resident bicycle parking is at lower ground level in secured areas. Non-standard bicycles are catered for. I also consider the provision and storage complies with the requirements of SPPR 4 of the Compact Settlement Guidelines (2024). I note that SPPR refers to bicycle provision for 'new housing schemes', whereas the houses are existing.

9.3.37. I consider that bicycle parking and storage is acceptable.

### Shadowing Impact

9.3.38. The grounds of appeal from the owners of 91 Clonskeagh Road consider that the proposed development would severely impact morning sunlight to the rear of existing

<sup>23</sup> Table 1 as referenced in the previous paragraph states that the visitor space requirement for student accommodation is one visitor space per five bedrooms, so there is a contradiction in the Plan in this regard.

properties on Clonskeagh Road, affecting residential amenity. The DCC Planning Report did not express any concern in relation to this issue.

- 9.3.39. Appendix 16 (Sunlight and Daylight) of the DCDP 2022-2028 notes in section 1 that it 'does not outline exact, city wide, expected results or a suite of results that are likely to be considered acceptable by the planning authority. Proposals will continue to be assessed on a case-by-case basis depending on site specific circumstances and location'. There is commentary in the Plan about the range of different guidance and standards relating to daylight and sunlight. Sub-section 3.6 states 'the planning authority will look to receive relevant metrics from BR 209, BS 8206-2 and BS EN 17037. If, over the coming years, a revised version of BR 209 is to be issued, the guidance within this new version will take precedence'. The planning application was accompanied by a Sunlight, Daylight & Shadow Assessment (SDSA). I note that this report was prepared in accordance with 'Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice - Third Edition – 2022' (page 2) i.e. it is this standard (BR 209:2022) that the DCDP 2022-2028 now considers to be applicable. This Third Edition is also referenced in sub-section 5.3.7 (b) of the Compact Settlement Guidelines (2024) and paragraph 6.6 of the Apartment Guidelines (2023) as one of the guides to which regard should be had. BR 209:2022 states in its summary that it is 'purely advisory' and in paragraph 1.6 it states 'The advice given here is not mandatory and the guide should not be seen as an instrument of planning policy ... natural lighting is only one of many factors in site layout design ...'
- 9.3.40. I note that the site is currently vacant and therefore the properties along Clonskeagh Road have had no development to the east affecting their sunlight/daylight in recent years. However, in an inner suburb/urban neighbourhood location such as this, this is not a normal setting. The SDSA details change/impact to neighbouring buildings from that permitted under 3159/17 / ABP-300024-17<sup>24</sup>, the performance of the proposed development, and the performance of the extensions/renovations of the 14 houses. The use of the previously permitted development is, in this case and in the context of the site being vacant, an informative comparison. Appendix 1 to the SDSA sets out an assessment against the existing scenario.

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<sup>24</sup> The applicant's response to the grounds of appeal states that DCC agreed that assessment could be made against this lapsed baseline (paragraph 5.96). This is allowed for under appendix F to BR 209:2022.

- 9.3.41. No. 91 Clonskeagh Road is included within 'Neighbour Group B2' for assessment. Three residential window facades and the amenity space to the rear of no. 91 are labelled. There is also 'Mainly Commercial Group B1' to the south west of the site and 'Neighbour Group B3' to the north west. There are 46 residential windows/facades assessed.
- 9.3.42. Assessed against the previously permitted/lapsed development baseline in terms of vertical sky component (VSC), only one window in Group B3 marginally fails. The average ratio of change is 0.96 but for a number of windows the proposed development would be an improvement on their amenity from the permitted/lapsed development, including the first floor window to the rear of no. 91 which would improve by a ratio of 1.08. Overall the proposed development generally complies with the BRE Guidelines in relation to neighbouring skylight availability.
- 9.3.43. In terms of annual probable sunlight hours (APSH) assessed against the previous permission, only one marginally fails in Group B3. For winter probable sunlight hours (WPSH) there are three marginal fails and three fails (including the only marginally failed APSH house). Average change ratios are 0.98 and 0.83 respectively. The SDSA considers there is general compliance with the Guidelines.
- 9.3.44. Shadowing to amenity spaces to the rear of the Clonskeagh Road properties are also assessed in the context of the previously permitted baseline. Two of nine amenity spaces marginally fail the test that at least half of an amenity area should receive at least two hours of sunlight on 21<sup>st</sup> March or a 0.8 ratio on the baseline. However, overall the ratio is improved from the permitted baseline by 1.08 (significantly aided by the garden of no. 83 Clonskeagh Road having an improved ratio of 2.32). The SDSA considers there is compliance with the Guidelines.
- 9.3.45. In summary, the SDSA considers that there would be general compliance with BR 209:2022 in terms of impact on adjoining properties when assessed against the previously permitted/lapsed development.
- 9.3.46. The SDSA also considers the performance of the development itself. Each floor of Blocks 2-5 is illustrated in terms of their room lux levels with relevant figures tabulated. 99% of rooms comply with the room targets for 50% of the floor area. 99% of living rooms and studios would receive 1.5 hours of sunlight on March 21<sup>st</sup>, well above the 80% target. All five communal spaces exceed the required 50% of the area receiving

greater than 2 hours of sunlight on March 21<sup>st</sup>. The SDSA considers there is general compliance with the Guidelines.

- 9.3.47. In relation to compensatory measures the SDSA references, inter alia, the extent of external communal areas and the range of internal PBSA amenities. I consider that these are appropriate measures, though the rate of development performance is high.
- 9.3.48. Appendix 1 contains an analysis of the proposed development's impact on the existing situation i.e. the vacant site as a baseline. 28 window facades would pass the VSC test. There would be 8 marginal fails and 10 fails (including the three window facades to no. 91). The average VSC change ratio would be 0.75. 40 window facades would pass the APSH test and 35 would pass the WPSH test with average change ratios of 0.70 and 0.52 respectively. One of the three windows to no. 91 would pass both tests, one would fail the APSH but pass the WPSH, and one would marginally fail the APSH and fail the WPSH. Four of the nine amenity areas would pass the shadowing test (no. 91 would fail).
- 9.3.49. It is clear that the results are better when using the theoretical baseline established by the previously permitted but lapsed development rather than the existing vacant site scenario. Having regard to the detail set out, and notwithstanding that the existing access to daylight and sunlight would be significantly reduced, I consider that the proposed development would be acceptable in the impact that would arise to adjoining properties. The proposed development has to be considered in the context of the appropriate densification of a brownfield site in an inner suburban area. The vacant site scenario is not one which should be considered a normal situation and BR 209:2022 envisages such a scenario. I consider that the proposed density and building heights are acceptable at this location as set out in the previous sub-section. As per BR 209:2022, the document itself is 'purely advisory' and shadowing impact is only one of many factors to be considered in site layout design. Similarly, section 7 (Assessing Results) of appendix 16 (Sunlight and Daylight) to the Plan states, inter alia, that 'the planning authority will apply rationale and reason on a case-by-case basis'. Overall, given the contribution that the proposed development would make to compact growth and its acceptability in terms of increased height, density, and scale, I consider that the proposed development would be acceptable in terms of shadowing impact.

### Overbearing/Overlooking Impact

- 9.3.50. The grounds of appeal from the owners of 91 Clonskeagh Road consider that the proposed development would have an overbearing and overlooking impact on their property.
- 9.3.51. I acknowledge that the proposed development would have a significant impact on the existing houses along Clonskeagh Road, notwithstanding that 14 of them comprise part of the development site. This site has been vacant for a number of years and therefore development on the site would result in a substantial alteration in the property setting and residential amenity to the rear of the houses. The area to the rear of the commercial properties to the south west is used as a service yard so this is not a sensitive use. However, there is an onus on the relevant planning authority to ensure development is at a suitable scale. As set out in sub-section 9.2 I consider the proposed density, scale, and building heights to be acceptable. As per the previous sub-heading (Shadowing Impact) I acknowledge that there would be a shadowing impact which would further affect these properties. In the case of the appellants' property, however, I note that the VSC scenario to the rear first floor would be better under the proposed development than under the previously permitted but lapsed application. While the proposed development would have a significant impact on the aspect to the rear of the Clonskeagh Road properties, I do not consider that it would be so overbearing that a refusal would be warranted. There is a need to balance the significant regeneration benefits of the proposed development with the impacts that would result to properties in the area, and I consider these to be acceptable.
- 9.3.52. Overlooking would not occur to the east as this area overlooks the River Dodder and Beech Hill Road with commercial uses further to the east. There is only one bedroom window on each of the upper ground, first, and second floors on the northern elevation of Block 1. I do not consider these would result in undue overlooking given that it appears to be overlooking open space associated with the Millrace Court development. To the south of Block 5 there is one window serving a KDL on the upper ground, first, second, third, and fourth floors. This area overlooks the rear service area of the commercial property units to the south west. There is an approximately 10 metres separation distance to the site boundary which I consider to be acceptable.



- 9.3.53. Overlooking to the west/rear of Clonskeagh Road properties from Blocks 2-5 is raised as an issue by the appellants. There are a substantial number of windows proposed along this elevation which would clearly result in a perception of overlooking to existing properties. Separation distances are illustrated on a number of layout plans and section drawings are also informative. There are set backs at the top floor of each block. Block 2 would have the least impact given it would overlook a vehicular cul-de-sac and PBSA communal open space with separation distances of approx. 27 metres minimum to third party houses. Block 3 is the highest building. It faces proposed Block 1 with a separation of 20.7 metres between blocks.
- 9.3.54. Block 4 is the block referenced in the grounds of appeal from the owners of no. 91. It is referred to as a seven storey block but as noted in the applicant's response to the grounds of appeal, it would present as a five storey block with a sixth floor set back given the lower ground level is below podium level. There is a separation distance of approx. 13 metres from Block 4 to the boundary wall of no. 91 and approx. 20 metres to the ground floor rear extension. There is a separation of approx. 30 metres to the rear first floor of the house. The applicant's response states that the number of windows on the closest elevation is minimised, and I agree that this specific part of the elevation has markedly fewer windows than much of the broader western elevation. I consider that the set back at this location is acceptable and that the applicant has reduced the number of windows on the relevant elevation to significantly decrease the potential for overlooking from this area. As set out in paragraph 9.3.51, there is a need to balance the significant regeneration benefits of the proposed development with the impacts that would result to properties in the area, and I consider these to be acceptable.
- 9.3.55. Concern is also expressed by the appellants in relation to the use of the podium area/bicycle store. The podium area extends along the frontage of Blocks 3-5 and there are other external communal spaces also provided. I do not consider that this specific area of the podium is likely to be a particular attraction for noise or socialising at night. As well as being close to existing houses this area is also adjacent to student bedrooms. The applicant's Property Management Strategy Report states 'Students who enter into a tenancy agreement will be required to abide by the house rules ... This will include adherence to a Code of Behavior including noise and security measures' (page 22). DCC conditioned that the facility be managed by a full-time on-

site team. I consider this to be acceptable in terms of addressing any anti-social behaviour that may arise. The applicant's response to the grounds of appeal also states that a heavily landscaped buffer is proposed along the boundary of 73-103 Clonskeagh Road to provide a privacy screen.

- 9.3.56. Block 5 is the most southerly of the blocks. Its footprint is angled in a slight north-east to south-west orientation. There are some windows facing the rear service area of the commercial properties but the block mainly faces no. 91 and the six houses south of it which form part of the application site. Block 5 is at least 18 metres from the rear of these houses and is approx. 27 metres from the building line of no. 91.
- 9.3.57. Having regard to the foregoing, and notwithstanding that the setting of the houses along Clonskeagh Road would be fundamentally changed by the proposed significant development adjacent to the east, I do not consider that undue overlooking would occur such that permission should be refused. I consider that the proposed development would be acceptable in terms of building heights and shadowing impact. SPPR 1 of the Compact Settlement Guidelines (2024) has reduced separation distance between opposing first floor windows to 16 metres and these distances are exceeded in this proposed development, notwithstanding the differences in scale between the Clonskeagh Road houses and Blocks 2-5. I consider the proposed separation distances to be acceptable.

#### Construction Nuisance

- 9.3.58. The grounds of appeal from the owners of 91 Clonskeagh Road refer to the position of that property in the context of the site and the duration of construction works which they would be subjected to.
- 9.3.59. I acknowledge that the property is effectively surrounded by the development site and that construction activity would have a significant impact on the residential amenity of the property for a significant length of time. However, the site is a vacant brownfield site and there is an obligation to ensure any development on site achieves appropriate densities and building heights. Standard conditions can be applied in the event of grant of permission relating to, for example, working hours and the submission of a Construction Management Plan which would reduce the nuisance as much as

reasonably possible. In addition, I recommend in sub-section 9.8 that any planning permission is limited to five years as opposed to the seven years sought.

- 9.3.60. Although conditions can be applied to reduce impacts, a degree of construction nuisance is inevitable with any significant works on this currently vacant site.

#### 9.4. **Biodiversity**

- 9.4.1. The Eglinton Residents Association grounds of appeal cite concerns about the impact of the proposed development on the biosphere of the river and its bank, the absence of any set back, refers to the Z9 zoning and policies GI39 and GI34 of the DCDP 2022-2028, and notes that the site is part of the existing strategic green and blue network in the Plan. The DCC Parks, Biodiversity and Landscape Services section prepared a report for this application. In relation to biodiversity issues the report states that the applicant's Biodiversity Enhancement & Management Plan is satisfactory and notes the provisions of the EclA. The section had no objection subject to conditions. IFI did not express any particular concern in its report.
- 9.4.2. The application was accompanied by a number of documents which can be summarised as follows:
- 9.4.3. *Ecological Impact Assessment (EclA)* – The aim is to preserve the riparian area as an ecological corridor and wildlife refuge. It would be maintained in its current condition with further native planting. There would be maintenance access only to this area. A number of field surveys have been carried out since 2021.

The majority habitat in the main body of the site is spoil and bare ground with areas of recolonising bare ground and scrub. The eastern boundary is (mixed) broadleaved woodland and the river habitat is depositing/lowland rivers. The area west of Clonskeagh Bridge is primarily (mixed) broadleaved woodland and a treeline. Three rare flora species were identified on site<sup>25</sup> and seven invasive species. No bat roosts were recorded, including in the buildings, and the site has overall low-medium (17.44 out of 100) suitability for bats. The Dodder is an important commuting and foraging corridor and some bat activity was recorded. A number of breeding bird species were recorded. Kingfisher was present on one occasion. In terms of non-breeding

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<sup>25</sup> Broad-leaved helleborine, ivy broomrape, and nettle-leaved bellflower.

(wintering) birds, no species designated for any nearby SPA were recorded. There was no evidence of badger though there was evidence of foxes. Otters are active in the area. A typical diversity of fish species was recorded e.g. salmon, brown trout, and European eel.

Key ecological receptors (KERS) are identified under designated sites (the six European sites identified in section 10), habitats (depositing/lowland rivers and mixed broadleaved woodland), flora (the species set out in footnote 25 plus invasive species), and native fauna (bats, breeding birds, kingfisher, hedgehog, Eurasian pygmy shrew, otter, fish, white-clawed crayfish), and an assessment of the impact of the proposed development on the local ecology during construction and operational phases is outlined. Embedded mitigation such as SuDS and retention of the riparian woodland is referenced. The potential for cumulative effects is also referenced. A number of avoidance, mitigation, compensation, and enhancement measures are identified including, inter alia, the preparation of a CEMP, the appointment of an ecological clerk of works (ECoW), works on the weir, and tree protection measures. Monitoring measures are referenced. With regard to bats, construction phase mitigation includes precautions prior to felling trees and renovating the existing houses (mitigation measure 9), and construction phase lighting (mitigation measure 13). 20 bat roosting opportunities are provided for within the facades of the apartment blocks along the river. Overall, it is considered that no significant negative residual effects will occur.

The EclA conclusion states that, in the long-term, the proposed development is considered to result in an overall positive effect on the ecology of the site and surrounds by increasing the floral biodiversity, providing new swift nesting habitat within the facades of apartment blocks, and the amendment of Smurfit Weir. Any short-term adverse effects will be more than offset and a net positive effect on biodiversity is expected.

- 9.4.4. *Fish Passage Design Report* – The Smurfit Weir was originally designed to send water for power to the now demolished paper mill. It is of architectural, historical, and technical interest. The weir has been identified by IFI as a complete barrier to fish migration and is having a highly negative effect on the overall ecology and hydromorphology of the catchment. The preferred fish passage option was the removal of sluice gates and retrofit grade control structures which can be done in

conjunction with the proposed development. The 3 metres wide sluice gate that forms part of the weir structure on the site side of the bank could be lowered with a series of rock armour and cobble grade control structures set at defined distances downstream of the sluice to assist fish passage upstream<sup>26</sup>. Sub-section 6.2 notes that, due to access logistics, the fish pass would have to be provided prior to the main development commencing and in-stream works must be carried out between July and September. A short and maximum 4 metres wide haul road and ramp into the river would have to be constructed immediately downstream of the sluice gate where the bank is already destabilised. The area would be reinstated using ecological engineering<sup>27</sup>. No other impacts on the currently vegetated zone are envisaged.

- 9.4.5. *Biodiversity Enhancement & Management Plan* – This describes the KERs supported by the site and details the specific management approaches to be followed with a particular focus on the wildlife refuge proposed along the eastern boundary. It will be implemented by a management company and managed by DCC as it will be taken in charge. Ecological features of note are set out with a description of how habitats will be created and managed. Details of monitoring are provided. It concludes that the proposed development will result in an overall positive effect on the site ecology in the long term.
- 9.4.6. I consider that the relevant documentation is thorough and robust and has been prepared by suitably qualified people. The site is relatively sensitive in that, although it is a vacant brownfield former industrial site that is largely surfaced in spoil and bare ground, it is adjacent to the River Dodder. Although the main body of the site is zoned for development, the riparian corridor is not. In my view the proposed development strikes an appropriate balance between the scale of the built fabric and the retention and enhancement of the riparian corridor to which no public access will be provided. I consider this to be an important element of the proposed development and, like the retention of the existing terraced houses along Clonskeagh Road, would retain notable elements of the original site while ensure appropriate redevelopment in line with compact growth principles.
- 9.4.7. In relation to the third party grounds of appeal I would make the following points:

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<sup>26</sup> This is illustrated in figure 3 of the EcIA.

<sup>27</sup> DCC condition 8 (h) requires a suitable vehicular access to be provided for river bank and weir maintenance.

- *Biosphere* – I do not concur with the appellant's assertion that the proposed development would have a profound impact on the biosphere of the river and its banks. There is no evidence to suggest that any ecological damage would occur to the river or its bank as a result of the proposed development. The riparian corridor would be retained and enhanced and the three documents summarised previously in this sub-section illustrate that biodiversity on site would be adequately protected while the main body of the site is developed as envisaged by the DCDP 2022-2028.
- *Z9 zoning* – I consider that the treatment and use of the riparian corridor is consistent with the Z9 zoning.
- *Existing Strategic Green and Blue Network* – The Dodder is shown on figure 10-1 (Existing Strategic Green and Blue Network in Dublin City) of the DCDP 2022-2028. The proposed development does not affect this. The Dodder and riparian corridor are retained.
- *Absence of a set back* – The proposed development is set back 10 metres from the river as required by the DCDP 2022-2028. Neither DCC nor IFI has raised any issue in this regard. Drawing no. Re.16-DR-2001 (Landscape Plan) illustrates the extent of the Z9 zoning boundary, the footprint of the existing flood wall that is being currently retained on site, and the extent of the riparian corridor. It can be seen in a number of locations that the proposed development footprint/new flood wall is stepped back further from the river than the existing flood wall is, thereby slightly increasing the proposed set back from that which currently exists. The additional area is to be populated with new tree planting.
- *Policy GI29 (Protect Character of River Corridors)* – This states as follows.  
*'To protect, maintain, and enhance the watercourses and their river corridors in the city and to ensure that development does not cover or encroach upon rivers and their banks. To maintain natural river banks and restore them as part of any new development. The creation and/or enhancement of river corridors will be required and river restoration opportunities where possible will be supported to help improve water quality, and ecology, provide natural flood relief as well as providing amenity and leisure benefits'.*

I consider that the proposed development maintains and enhances the Dodder and its corridor through provision of a fish passage, which would improve the ecology of the river, and the biodiversity improvement of the adjoining river bank through the provisions of the Biodiversity Enhancement & Management Plan. The required set back is provided and there would be no public access to the river bank.

- *Policy GI34 (New Development and Public Open Space along River Corridors)* – This states as follows.

*To ensure that new development, in terms of siting and design, responds to the character, importance and setting of the city's rivers where the context allows, and to require public open space which is to be provided as part of new development, to supplement riparian buffer zones so as to support the attainment of 'good ecological status' or higher for water bodies, flood management, the conservation of biodiversity and ecosystem functions.*

The proposed development is appropriate to the setting and proximity to the river is one of the reasons that allows the proposed development to be up to eight storeys in height. The riparian buffer zone would be improved as a result of the amendments proposed within, for example, the Biodiversity Enhancement & Management Plan. This is open space but public access would not be permitted due to the protection of the corridor as a wildlife refuge. This is in response to concerns raised in a previous planning application. Set back flood walls are also proposed as this site is in flood zone A/B.

- 9.4.8. Having regard to the foregoing, I consider that the proposed development would be acceptable at this location, would not have an adverse impact on biodiversity, and would be consistent with the provisions of the National Biodiversity Action Plan 2023-2030. The proposed development includes for the retention and improvement of the riparian corridor as a wildlife refuge as set out in the Biodiversity Enhancement & Management Plan. The fish passage proposed would improve the ability of species to migrate upstream. The IFI report indicates that further works are likely in this regard, though not as part of this application. I have no concern about the proposed development in the context of biodiversity, subject to the inclusion of appropriate conditions in any grant of permission that may issue.

## 9.5. Flood Risk

- 9.5.1. Flood risk was not an issue raised in the grounds of appeal or in third-party submissions received by DCC. Flood mapping shows the site to be in Flood Zone A/B and at risk of fluvial flooding in the 1% and 0.1% AEP<sup>28</sup> events. DCC's Drainage Division report indicated no objection subject to conditions including implementation of the flood mitigation measures in the FRA, detailed design of the proposed flood walls and associated works to be agreed with the planning authority prior to the commencement of development, and that proposed flood defence works upstream of Clonskeagh Bridge be fully completed prior to first occupation of the development.
- 9.5.2. An FRA was submitted with the application. During extreme rainfall events, flooding occurs where the River Dodder floods into Farmer Browns and then overflows across Clonskeagh Road into the subject site before re-entering the river. The site essentially acts as a conveyance route for flood flows rather than providing flood storage. DCC and the Office of Public Works (OPW) are developing a flood alleviation scheme (FAS)<sup>29</sup> which will prevent overland flooding from the river entering the subject site during a 1 in 100 year plus climate change event. The element of the scheme required to protect the subject site during the 1 in 100 year plus climate change event is contained within the Farmer Browns site. The planning application includes those specific elements of works which form part of the proposed FAS works at Farmer Browns. The FRA states that there has been extensive engagement with DCC to ensure that the works are consistent and in accordance with the design proposals. The wider FAS will be subject to a separate planning consent process and the current application is not dependent upon the wider FAS. The planning application also includes for a flood wall along the river adjacent to the main body of the development site to prevent water entering the site directly from the river during extreme rainfall events.
- 9.5.3. A flood defence wall will be provided upstream of the bridge to prevent overtopping of the river. The proposed development includes a lower ground level which will remain partially open along the eastern boundary. Any flooding that inundates the site can flow through the site and re-enter the river. There is also a gap between Blocks 2 and

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<sup>28</sup> Annual exceedance probability

<sup>29</sup> 'River Dodder (Clonskeagh Road Bridge to Orwell Road Bridge) Flood Alleviation Scheme Phase 3'.



3 providing clear passage for flood waters through the site. A submersible pump can be used to empty the lower ground floor level when any flood has receded. There is a boundary wall along the north of the site to remove impact on properties to the north and there is a catchment trench along the roadside to provide a flow path into the lower ground level. The development is not reliant on alterations to or the removal of the weir as part of the flood mitigation measures. A Flood Emergency Management Plan has been prepared as appendix F to the FRA.

- 9.5.4. Section 6 of the FRA comprises the justification test for the proposed development. It notes, inter alia, that the site has been zoned for residential development, that once mitigation measures have been implemented it will not increase flood extents elsewhere and will reduce overall flood risk to existing properties, proposed FFLs will protect the development, and the proposed development is compatible with the achievement of wider planning objectives in relation to good urban design.
- 9.5.5. The FRA concludes that, post development, the subject site will be a defended location and would not be premature pending the delivery of the wider FAS. All residential development is above lower ground floor level. The results from the justification test confirms that the development at this location is appropriate.
- 9.5.6. I consider that the applicant's FRA is thorough, robust, and has been prepared by suitably qualified people. I accept the conclusions of same. I note that the site is zoned for development of the type proposed and there has been a history of planning applications granted on this site. I also note that DCC's Drainage Division indicated no objection subject to relatively standard conditions, which I consider should be included in the Commission's decision should permission be granted. Notwithstanding the location of the site within flood zones A/B, I consider, having regard to the applicant's FRA and the mitigation proposed, plus the works west of Clonskeagh Bridge, which are relatively extensive in scale and include a new vehicular access into Farmer Brown's car park, new flood wall over which separated vehicular and pedestrian movement would be retained, new flood defence ramp, embankment and raised ground west of the car park, and removing existing bridge railings, would not result in undue flood risk hazard and would benefit the local area in advance of the wider implementation of the FAS.

## **9.6. Conservation Area, Architectural Heritage, and Archaeology**

- 9.6.1. The Eglinton Residents Association grounds of appeal refers to the site location within a conservation area and the recent refusal of permission on the Ashton's site partly on this basis. I would draw the Commission's attention to the fact that on 3<sup>rd</sup> September 2025 comments were sought by the Commission from the Department of Housing, Local Government and Heritage (Development Applications Unit), The Heritage Council, and An Taisce, specifically citing the presence of Clonskeagh Bridge (Recorded Monument DU022-090). A response has been received from the Department, but it related to nature conservation issues rather than architectural heritage.
- 9.6.2. The subject site only comprises a very small part of the conservation area within which it is situated. This conservation area comprises the entire length of the River Dodder within DCC jurisdiction, and land along its banks, from Bushy Park to the River Liffey and includes, in the wider vicinity of the site, the six-storey Shanagarry apartment development approx. 900 metres to the south west and houses along Beaver Row and Brookvale within approx. 300 metres to the north east. Therefore, notwithstanding that the site is within a conservation area, it is not a particularly notable or sensitive area given the vast extent of the conservation area and the amount and scale of development within it. For clarity, the site is not within an architectural conservation area, but within a conservation area as designated in the DCDP 2022-2028.
- 9.6.3. As referenced in the appellants grounds of appeal, the DCC Conservation Officer did express concern about the visual impact of Blocks 2-5 ('The Conservation Officer has concerns with regard the visual impact that the proposed development would have on the character of the receiving environment'). Notwithstanding this comment the Conservation Officer recommended a grant of permission subject to conditions and the only further reference to this type of issue related to a condition to omit or set back the second floor of Block 1 (which the Planning Report noted but did not include). Therefore, while the Conservation Officer may have had concerns in relation to Blocks 2-5, they were not significant concerns.
- 9.6.4. The grounds of appeal also reference the split-decision of the Board in relation to the application at Ashton's, adjacent to the north of the site. The decision is summarised in paragraph 5.1.8. Sub-section 15.15.2.2 (Conservation Areas) of the DCDP 2022-

2028 was cited in the first reason of the refusal part of the decision as ‘where planning applications are required, inter alia, to protect the amenities of surrounding properties and to be cognisant and/or complementary to the existing scale, building height and massing of the surrounding context’. I note that this was only one of a number of different issues cited in the reason. I have previously addressed in detail issues of density, building height, and adjoining residential amenity. The Ashton’s application involved, inter alia, a five-storey extension comprising public house/restaurant and hotel uses on a 0.1008 hectare site. By contrast, the proposed development has a net site area of 0.9 hectares, different land uses are involved, and the site setting is different. Each application is assessed on its own merits and the Ashton’s decision, while of interest, is not particularly relevant to this application as they are very different developments on very different sites. I consider the proposed development to be acceptable at this location and the DCC Conservation Officer’s report recommended a grant of permission subject to conditions.

- 9.6.5. I do not consider the fact that the site is within a conservation area has an undue influence on the proposed development. Notwithstanding, I consider that certain aspects of the proposed development, such as the retention and improvement of the riparian corridor, the provision of a fish passage to allow for upstream migration of aquatic species, and the retention and improvement of the 14 terraced houses along Clonskeagh Road are elements of the proposed development that are consistent with the conservation area designation.
- 9.6.6. The planning application was accompanied by an Architectural Heritage Impact Assessment, the purpose of which was to ‘examine the site and its surroundings for their architectural, historical, archaeological, artistic, cultural, scientific, technical, and social importance, taking cognisance of all features that merit mention or specific conservation, and to assess the architectural impact of the proposed development on the historic features of the site’ (section 1). The retention of the 14 terraced houses is a very positive element of the application.
- 9.6.7. The DCC Conservation Officer’s report stated that it had considered relevant policies BHA9, BHA11, BHA16, BHA17, and BHA22 of the DCDP 2022-2028, which are contained within the Built Heritage and Archaeology Chapter. A grant of permission was recommended subject to four conditions relating to, inter alia, the employment of a conservation expert, the submission for approval of method statements and salvage

strategies, external finishes, and works to be carried out in accordance with best conservation practice. The DCC decision does not include any of the conditions recommended by the Conservation Officer. The reason for this is not clear, and the planning authority has not stated in its response to the grounds of appeal that these were omitted in error. I have addressed in sub-section 9.3 that I consider that Block 2 sits comfortably in the streetscape and a reduction in its height, as recommended by the Conservation Officer, is not necessary. I consider that recommended condition 8 attached to this report adequately addresses the Conservation Officer's recommendations (excluding the reduction in height of Block 2) and would ensure that architectural heritage is appropriately considered in the proposed development.

- 9.6.8. An Archaeological Impact Assessment Report (AIAR) was also submitted with the planning application. The site is within the Zone of Archaeological Constraint for DU022-090 (Bridge). The AIAR notes that a mill of some description was present on site since at least 1770. Enabling works under a previous permission revealed post-medieval industrial heritage features which were recorded in situ. Proposed works will result in the removal of these features though it is not anticipated that additional structural remains associated with the milling activity on-site will be revealed. The proposed works will have no significant impact on the 19th century weir structure itself. The presence of in-situ archaeology within the river is considered unlikely, though there is potential for chance finds. Despite the ground adjacent to the bridge already having been disturbed there is an inherent archaeological potential related to any riverine environment. Works to the bridge itself will not impact it, as this side of it only dates to c.2000.
- 9.6.9. The AIAR considers that archaeological monitoring will be required for all earthmoving activities. An archaeological wade and metal detection survey upstream and downstream of the weir should take place in advance of construction as well as archaeological monitoring of the enabling works.
- 9.6.10. The DCC Archaeologist prepared a report for the application which recommended conditions to be attached to any grant of permission. I consider the conditions attached should largely be included should the Commission grant permission, given their specificity in relation to the subject development, and I include this as recommended condition 17. Given the extent of activity that has already been carried out on site I

consider that the recommended condition is adequate to address any further archaeological material that may exist.

#### 9.7. Objective CUO25 of the Dublin City Development Plan (DCDP) 2022-2028

9.7.1. Objective CUO25 (SDRAs and Large Scale Developments) states as follows.

*‘All new regeneration areas (SDRAs) and large scale developments above 10,000 sq. m. in total area\* must provide at a minimum for 5% community, arts and culture spaces including exhibition, performance, and artist workspaces predominantly internal floorspace as part of their development at the design stage. The option of relocating a portion (no more than half of this figure) of this to a site immediately adjacent to the area can be accommodated where it is demonstrated to be the better outcome and that it can be a contribution to an existing project in the immediate vicinity. The balance of space between cultural and community use can be decided at application stage, from an evidence base/audit of the area. Such spaces must be designed to meet the identified need.*

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

9.7.2. As the proposed development has a floor area above 10,000sqm this objective applies. Sub-section 7.9 of the applicant’s Planning Report & Statement of Consistency states that the net internal area of the proposed development is 13,466.8sqm. 5% of this is 673.3sqm.

9.7.3. The proposed cultural/arts/community space is contained within Block 1. Access is directly from Clonskeagh Road to an area on the upper ground floor overlooking the footpath/road. There is also a larger floorspace on the lower ground floor which opens to an open space area to the rear. There is an internal floorspace of 604.1sqm and an external area of 75.9sqm, giving a combined area of 680sqm, slightly above the 5% required.

9.7.4. The DCC Planning Report indicated no concern in relation to this objective and condition 14 of the grant of permission is relevant. I consider the floorspace to be appropriately located within the scheme for ease of access by residents of the wider area and consider the objective has been appropriately complied with. I consider a

standard condition should apply in relation to use and management if permission is granted.

#### **9.8. Seven-Year Permission**

- 9.8.1. The applicant is seeking a seven year permission for the proposed development as per the public notices. The rationale for this is the scale and nature of the proposed development and the associated complexities of construction (page 3 of the application cover letter dated 9<sup>th</sup> May 2025).
- 9.8.2. Paragraph 7.4 of the Development Management Guidelines for Planning Authorities (2007) states 'Planning authorities may grant permission for a duration longer than 5 years if they see fit, e.g. for major developments (for example for wind energy developments) but it is the responsibility of applicants in the first instance to request such longer durations in appropriate circumstances'. In my opinion there is no justification in this case for extending the standard five-year permission. Although the proposed development in its entirety is relatively substantial, I do not consider that it is of such a scale or complexity that a seven-year permission is warranted. A five-year permission would encourage a prompter commencement of development and a reduced length of construction phase nuisance for existing residents. I note that an extension of duration to the permission can be sought should this be necessary.
- 9.8.3. Having regard to the foregoing, should the Commission decide to grant permission, I consider that a standard five-year permission is sufficient and recommend that this be included as a condition of any grant of permission.

#### **9.9. Planning Authority Conditions**

- 9.9.1. DCC granted permission subject to 23 conditions. These are briefly summarised in the following table and I also indicate whether I have included or incorporated them in my recommended conditions in section 14. Some conditions, while indicated as being included in the recommended conditions, may have been reworded for clarity, brevity, or other reasons, but are essentially consistent with the DCC condition.

**Table 9.6 – DCC Conditions**

<b>Cond. No.</b>	<b>Summary</b>	<b>Included or Excluded in Recommended Conditions</b>
1	Development as per plans and particulars	Included as standard condition 1
2	S.48 development contribution	Included as standard condition 29
3	Security bond	Included as standard condition 28
4 (a) – (b)	Parameters and operation of PBSA	Included as condition 4
5 (a) – (b)	Hours of construction	Included as standard condition 23
6	Street cleaning	Incorporated into standard condition 24 (g)
7	Requirements of Drainage Division, Transportation Division, and Noise & Air Pollution Section	Excluded. Not a standard Commission condition.
8 (a) – (o)	Drainage, flooding, bankside vehicular access, NIS/CEMP,	<p>(a)-(d), (i)-(j), (l), (n)-(o) – Addressed in standard condition 20.</p> <p>(e) – Addressed in standard condition 1</p> <p>(f) – (g) – Included as condition 7</p> <p>(h) – Plausible access via lower ground floor. Included as condition 9.</p> <p>(k) – Addressed in standard conditions 3 and 25.</p> <p>(m) Not a standard Commission condition / limited areas to be taken in charge.</p>

9 (a) – (c)	Uisce Éireann	Addressed in standard condition 21
10 (a) – (g)	Transportation Planning requirements	(a), (f)-(g) – Not standard Commission conditions  (b) Generally addressed in standard conditions 24 and 25  (c)-(e) Unnecessary, provided for within the application (standard condition 1)
11	Archaeology	Included as condition 17
12 (a) – (g)	Parks and biodiversity	(a) Addressed in standard condition 27  (b) Addressed in conditions 13 (e) – (g)  (c) Generally excluded. Very limited area for taking in charge with no public accessibility.  (d) Generally excluded. Very limited space for additional garden areas. Additional landscaping addressed as condition 13 (b)  (e) – (f) – Generally addressed by standard conditions 1, 3 and 13 (c)
13	Environmental health	Excluded. Not a standard Commission condition.
14	Cultural/arts/community unit	Generally addressed in condition 5
15	External materials	Included as standard condition 10
16	Telecoms infrastructure	Generally addressed in standard condition 16
17 (a) – (b)	Noise	Generally addressed in standard condition 24 (i)



18	Additional roof level infrastructure	Excluded. Not considered to be a necessary condition.
19	Advertising	Excluded. Not considered to be a necessary condition given the nature of development.
20 (a) – (d)	Waste management	Generally addressed in standard condition 18
21	Naming and numbering	Generally addressed in standard condition 11
22 (a) – (f)	IFI and lighting	Generally addressed in condition 6 and standard condition 14
23	Part V	Addressed in standard condition 26

## 10.0 Appropriate Assessment (AA)

### 10.1. Stage 1 – Screening Determination for Appropriate Assessment (AA)

10.1.1. AA screening has been carried out in Appendix 3 to this report.

10.1.2. In accordance with Section 177U of the Planning & Development Act, 2000 (as amended), and on the basis of objective information provided by the applicant, I concluded that the proposed development could result in significant effects on North Dublin Bay SAC, South Dublin Bay SAC, Wicklow Mountains SAC, South Dublin Bay and River Tolka Estuary SPA, North Bull Island SPA, and North-west Irish Sea SPA in view of the conservation objectives of those sites.

10.1.3. It was therefore determined that AA (stage 2) under section 177V of the 2000 Act (as amended) of the proposed development was required.

### 10.2. Stage 2 – Appropriate Assessment (AA)

10.2.1. Stage 2 AA has been carried out in Appendix 4 to this report.

10.2.2. In screening the need for AA, it was determined that the proposed development could result in significant effects on North Dublin Bay SAC, South Dublin Bay SAC, Wicklow Mountains SAC, South Dublin Bay and River Tolka Estuary SPA, North Bull Island SPA, and North-west Irish Sea SPA in view of the conservation objectives of those sites and that AA under the provisions of s177V of the Planning & Development Act, 2000 (as amended) was required.

10.2.3. Following an examination, analysis, and evaluation of the NIS, all associated material submitted with the application, and information publicly available from the NPWS, I consider that adverse effects on the site integrity of North Dublin Bay SAC, South Dublin Bay SAC, Wicklow Mountains SAC, South Dublin Bay and River Tolka Estuary SPA, North Bull Island SPA, and North-west Irish Sea SPA can be excluded in view of the conservation objectives of these sites and that no reasonable scientific doubt remains as to the absence of such effects.

10.2.4. My conclusion is based on the following:

- detailed assessment of construction and operational impacts,
- effectiveness of mitigation measures proposed including supervision and monitoring and integration into CEMP ensuring smooth transition of obligations to eventual contractor,
- application of planning conditions to ensure application of these measures, and,
- the proposed development will not affect the attainment of conservation objectives for North Dublin Bay SAC, South Dublin Bay SAC, Wicklow Mountains SAC, South Dublin Bay and River Tolka Estuary SPA, North Bull Island SPA, and North-west Irish Sea SPA.

## **11.0 Water Framework Directive (WFD)**

11.1. The provisions of appendix 5 apply to this section.

11.2. The site is located in an inner suburban area of Dublin on a brownfield former industrial site. The River Dodder runs along the southern and eastern boundary of the main development site area. Flood defence and alleviation works are proposed immediately

west of Clonskeagh Bridge and instream works to alter Smurfit Weir also forms part of the proposed development.

- 11.3. No specific water deterioration concerns were raised in the planning appeals, though some general concern was expressed about the impact on the biosphere of the river and riparian corridor.
- 11.4. I have assessed the proposed LRD and have considered the objectives as set out in Article 4 of the WFD which seek to protect and, where necessary, restore surface and ground water waterbodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration. Having considered the nature, scale, and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any surface and/or groundwater water bodies either qualitatively or quantitatively.
- 11.5. The reasons for this conclusion are as follows:
- the nature of the proposed works including the introduction of SuDS for the operational stage, the retention and protection of the riparian area and absence of public access to same, and the alteration proposed to Smurfit Weir to facilitate upstream migration of aquatic species and improve biodiversity within the watercourse.
  - the presence of a public foul sewer to which the development would discharge, and,
  - the proposed mitigation measures contained within submitted documentation such as the NIS, CEMP, Hydrological and Hydrogeological Risk Assessment Report (HHRAR), Preliminary Construction Method Statement for the Construction of the Upstream Flood Relief Works, and the Fish Passage Design Report.
- 11.6. On the basis of objective information, the proposed development would not result in a risk of deterioration on any water body (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively or on a temporary or permanent basis or otherwise jeopardise any water body in reaching its WFD objectives and consequently can be excluded from further assessment.

## **12.0 Recommendation**

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

## **13.0 Reasons and Considerations**

In coming to its decision the Commission has had regard to the following:

- (a) the nature, scale, and extent of the proposed development and the pattern of existing development in the area,
- (b) the provisions of the Project Ireland 2040 National Planning Framework,
- (c) the provisions of Housing for All – A New Housing Plan for Ireland to 2030 (2021),
- (d) the provisions of the Climate Action Plan (2025),
- (e) the provisions of the National Biodiversity Action Plan 2023-2030, which have been considered,
- (f) the provisions of the Sustainable Residential Development and Compact Settlement Guidelines for Planning Authorities (January 2024),
- (g) the provisions of the Urban Development and Building Height Guidelines for Planning Authorities (December 2018),
- (h) the provisions of the Planning System and Flood Risk Management Guidelines for Planning Authorities (2009),
- (i) the provisions of the Sustainable Urban Housing: Design Standards for New Apartments (July 2023),
- (j) the provisions of the Dublin City Development Plan 2022 including the ‘Z1 – Sustainable Residential Neighbourhoods’ and ‘Z9 – Amenity/Open Space Lands/Green Network’ zonings for the site,
- (k) the documentation submitted with the planning application, and the third party grounds of appeal,

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

### **Appropriate Assessment Screening**

The Commission agreed with and adopted the screening assessment and conclusion carried out in the Inspector's report that North Dublin Bay Special Area of Conservation (SAC) (site code 000206), South Dublin Bay SAC (site code 000210), Wicklow Mountains SAC (site code 002122), South Dublin Bay and River Tolka Estuary Special Protection Area (SPA) (site code 004026), North Bull Island SPA (site code 004006), and North-west Irish Sea SPA (site code 004236) are the only European sites in respect of which the proposed development has the potential to have a significant effect.

### **Appropriate Assessment**

The Commission considered the Natura Impact Statement and associated documentation submitted with the planning application, the mitigation measures contained therein, the submissions on file, and the Inspector's assessment. The Commission completed an appropriate assessment of the implications of the proposed development for the affected European sites, namely North Dublin Bay SAC, South Dublin Bay SAC, Wicklow Mountains SAC, South Dublin Bay and River Tolka Estuary SPA, North Bull Island SPA, and North-west Irish Sea SPA, in view of the sites' conservation objectives. The Commission considered that the information before it was adequate to allow the carrying out of an appropriate assessment. In completing the appropriate assessment, the Commission considered, in particular, the following:

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

iii. the conservation objectives for the European sites.

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

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

### **Environmental Impact Assessment Screening**

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

(a) the nature and scale of the proposed development, which is below the thresholds in respect of Paragraphs 10 (b)(i) and (iv), Paragraph 10 (f) (ii), and Paragraph 14 of Part 2 of Schedule 5 of the Planning & Development Regulations, 2001 (as amended),

(b) the location of the site on land zoned 'Z1 – Sustainable Residential Neighbourhoods' and 'Z9 – Amenity/Open Space Lands/Green Network' in the Dublin City Development Plan 2022- 2028,

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

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

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

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

the Construction Environmental Management Plan, Ecological Impact Assessment, and Hydrological and Hydrogeological Risk Assessment Report,

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

### **Proper Planning and Sustainable Development**

The Commission considered that, subject to compliance with the conditions set out below, the proposed development would be consistent with the zoning and other relevant development objectives of the Dublin City Development Plan 2022-2028, it would make efficient use of an appropriately zoned brownfield site within an inner suburban area of the city and would contribute to compact growth, it would positively contribute to an increase in housing stock and purpose-built student accommodation at a location relatively close to University College Dublin, it would be acceptable in terms of urban design, layout and building height, it would provide an acceptable form of residential amenity for future occupants, it would contribute to the improvement of biodiversity as it would provide for a riparian refuge along the bank of the river and significantly improve the ability of fish to access the area upstream of the existing weir, and it would provide flood defence and alleviation works in an area liable to flooding. The proposed development would not comprise overdevelopment of the subject site or seriously injure the residential or visual amenities of the area. 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, 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 and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. The period during which the development hereby permitted may be carried shall be five years from the date of this Order.

**Reason:** In the interest of clarity.

3. The mitigation measures contained in the submitted Natura Impact Statement (NIS) shall be implemented.

**Reason:** To protect the integrity of European Sites.

4. (a) The proposed development shall be used for student accommodation or accommodation related to a Higher Education Institute only during the academic year, or student accommodation or accommodation related to a Higher Education Institute or tourist/visitor accommodation only during academic holiday periods.  
  
(b) The student accommodation shall be operated and managed by an on-site management team on a 24-hour, seven day, full-time basis.  
  
(c) The student accommodation and complex shall be operated and managed in accordance with the measures indicated in the Property Management Strategy Report submitted with the application.  
  
(d) The development shall not be used for the purposes of permanent residential accommodation, as a hotel, hostel, apart-hotel or similar use without a prior grant of permission.

**Reason:** In the interests of the amenities of occupiers of the units and surrounding properties.

5. (a) Prior to commencement of development and in consultation with the Dublin City Arts Office, the developer shall provide details, for the written agreement of



the planning authority, indicating the proposed use and future management of the culture/arts/community space. This space shall be fully accessible to the public. Details regarding intended hours of operation and a schedule for opening the space as part of the overall development shall be submitted, for written agreement, to the planning authority prior to commencement of development. All works to ensure the space is operational shall be undertaken at the developer's own expense.

(b) Detail of signage to the commercial unit and the community/arts/cultural unit shall be submitted to, and agreed in writing with, the planning authority prior to operation of the units.

**Reason:** In the interests of residential and visual amenity and to ensure the timely provision of services.

6. Prior to commencement of development the developer shall consult with Inland Fisheries Ireland with regard to the in-stream works related to lowering the sluice gates and provision of grade control structures to the Smurfit Weir. The developer shall submit a methodology in relation to same for the written approval of the planning authority, including documentation from Inland Fisheries Ireland confirming that they have been consulted regarding same.

**Reason:** In the interest of the protection of water quality.

7. (a) Detailed design of the flood defence and alleviation works shall be agreed in writing with the planning authority prior to commencement of development.  
(b) Flood defence and alleviation works upstream of Clonskeagh Bridge shall be completed prior to first occupation of the development.

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

8. Prior to the commencement of development, the developer shall submit, for the written agreement of the planning authority, a specification and method statement

covering all works to be carried out to the 14 terraced houses to be renovated and extended, to ensure the development is carried out in accordance with good conservation practice. In the event of agreement not being reached between the developer and the planning authority, the matter may be referred to An Coimisiún Pleanála for determination, and all works shall be carried out in accordance with any determination made resulting from such referral.

**Reason:** In the interest of the protection of architectural heritage.

9. A suitable vehicular access shall be provided for river bank and weir maintenance unless otherwise agreed in writing with the planning authority. Full details of this shall be agreed in writing with the planning authority prior to commencement of development.

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

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

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

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

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

12. (a) The development shall be carried out on a phased basis, in accordance with a phasing scheme which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of any development.

(b) Work on any subsequent phases shall not commence until such time as the written agreement of the planning authority is given to commence the next phase. Details of further phases shall be as agreed in writing with the planning authority.

**Reason:** To ensure the timely provision of services, for the benefit of the occupants of the proposed dwellings.

13. (a) The landscaping scheme shown on drawing numbers Re. 16-DR-2001 and Re. 16-DR-2003, as submitted to the planning authority on 9<sup>th</sup> May 2025 shall be carried out within the first planting season following substantial completion of external construction works.

(b) Additional detail of landscaping to the flood defence and alleviation works area to the west of Clonskeagh Bridge shall be submitted for the written approval of the planning authority.

(c) Vegetation clearance on site shall only be undertaken outside the main bird breeding season i.e. from September to February inclusive.

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

(e) A suitably qualified arborist shall be retained for the construction phase to advise and supervise all works associated with or in proximity to trees to be retained.

(f) Prior to commencement of development, all trees, groups of trees, hedging and shrubs which are to be retained shall be enclosed within stout fences not less than 1.5 metres in height. This protective fencing shall enclose an area covered by the crown spread of the branches, or at minimum radius of two metres from the trunk of the tree or centre of the shrub, and shall be maintained until the development has been completed.

(g) No construction equipment, machinery or materials shall be brought onto the site for the purpose of the development until all the trees and hedgerows which

are to be retained have been protected by this fencing. No work shall be carried out within the area enclosed by the fencing and, in particular, there shall be no parking of vehicles, placing of site huts, storage compounds or topsoil heaps, storage of oil, chemicals or other substances, and no lighting of fires, over the root spread of any tree to be retained.

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

14. Public lighting shall be provided in accordance with a scheme which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The scheme shall include lighting along pedestrian routes through open spaces and shall be bat friendly.

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

15. The development shall be carried out and operated in accordance with the provisions of the Mobility Management and Travel Plan (MMTP) submitted to the planning authority. The specific measures detailed in the MMTP to achieve the objectives and modal split targets for the development shall be implemented in full upon first occupation of the development. The developer shall undertake an annual monitoring exercise to the satisfaction of the planning authority for the first five years following first occupation of the development and shall submit the results to the planning authority for consideration and placement on the public file.

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

16. 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. Any existing over ground cables shall be relocated underground as part of the site development works.

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

17. (a) The scheme shall incorporate a professionally written and illustrated fact checked heritage display that commemorates the history and industrial heritage of the site. The design and placement of the heritage display shall be submitted to the planning authority for written agreement and shall be installed prior to occupation of the development.
- (b) An archaeological wade and metal detection survey of the upstream and downstream sides of the historic weir shall take place prior to commencement of development. The reports shall be submitted to the planning authority for written agreement prior to development.
- (c) The developer shall retain a suitably qualified licensed archaeologist to advise regarding the archaeological implications of site clearance, demolition and/or construction methodology, and to make appropriate recommendations for mitigation including detailed survey as necessary. The archaeologist shall provide an updated Archaeological Impact Assessment of the proposed development (including temporary and enabling works) to the planning authority prior to monitoring.
- (d) The developer shall allow for the resolution of archaeology (both on site and necessary post-excavation) in the project budget and timetable.
- (e) The archaeologist shall undertake licensed archaeological monitoring of all demolition and sub-surface works associated with the development including the breaking and removal of any floor slabs, levelling of ground, and enabling works at the historic weir.
- (f) The archaeologist shall consult with and forward their Method Statement for monitoring in advance for the written agreement of the planning authority.
- (g) The Institute of Archaeologists of Ireland (IAI) document IAI Code of Conduct for Archaeological Monitoring (2006) shall be consulted and adhered to.
- (h) In the event of in situ archaeological features being located in the course of the monitoring, the developer shall facilitate the archaeologist in fully recording such features, including all post-1700 AD in-situ features and layers. Full archaeological excavation of such features may be a requirement. At a minimum recording of all

archaeological features shall include a written, photographic, and drawn survey record.

(i) In the event of in-situ archaeological features being discovered, the archaeologist retained by the developer shall immediately contact the planning authority. The planning authority (in consultation with the City Archaeologist and the National Monuments Service, Department of Housing, Local Government and Heritage) shall determine the further archaeological resolution of the site.

(j) The developer shall comply in full with any further archaeological requirement arising from the results of the monitoring, including if necessary archaeological excavation and/or the preservation in situ of archaeological remains, which may negate the facilitation of all, or part of any basement.

(k) Two copies of a written report and a digital report containing the results of the archaeological monitoring shall be forwarded on completion to the planning authority and National Monuments Service, Department of Housing, Local Government and Heritage.

(l) Following submission of the final report to the planning authority, where archaeological material is shown to be present, the archaeological paper archive shall be compiled in accordance with the procedures detailed in the Dublin City Archaeological Archive Guidelines (2008 Dublin City Council) and lodged with the Dublin City Library and Archive, 138-44 Pearse Street, Dublin 2. A submission showing accession to the archive shall be submitted for the written agreement of the planning authority.

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

18. 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 shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

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

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

**Reason:** In the interest of proper planning and sustainable development.

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

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

21. Prior to the commencement of development the developer shall enter into a Connection Agreement(s) with Uisce Éireann (Irish Water) to provide for a service connection(s) to the public water supply and/or wastewater collection network.

**Reason:** In the interest of public health and to ensure adequate water/wastewater facilities.

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

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

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

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

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

- (a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
- (b) Location of areas for construction site offices and staff facilities;
- (c) Details of site security fencing and hoardings;
- (d) Details of on-site car parking facilities for site workers during the course of construction;



- (e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;
- (f) Measures to obviate queuing of construction traffic on the adjoining road network;
- (g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- (h) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;
- (i) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- (j) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
- (k) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- (l) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.
- (m) A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be available for inspection by the planning authority;
- (n) The appointment and responsibilities of a community liaison officer for the duration of the construction period.

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

25. Prior to the commencement of any works associated with the development hereby permitted, the developer shall submit a detailed Construction Environmental Management Plan (CEMP) for the written agreement of the planning authority.

The CEMP shall incorporate details for the following: collection and disposal of construction waste, surface water run-off from the site, on-site road construction, and environmental management measures during construction including noise control, dust and vibration control, and monitoring of such measures. A record of daily checks that the construction works are being undertaken in accordance with the CEMP shall be kept at the construction site office for inspection by the planning authority. The agreed CEMP shall be implemented in full in the carrying out of the development.

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

26. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and sections 96(2) and (3)(b) (Part V) of the Planning & 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 & Development Act, 2000 (as amended), and of the housing strategy in the development plan for the area.

27. 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 Bord Pleanála for determination.

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

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

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

29. The developer shall pay to the planning authority a financial contribution of €5,000 (five thousand euro) per apartment unit as a contribution in lieu of the public open space requirement, in respect of public open space benefitting the development in the area of the planning authority which 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.

30. 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.

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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Anthony Kelly

Senior Planning Inspector

21<sup>st</sup> October 2025

## Appendix 1 – Environmental Impact Assessment (EIA) Pre-Screening

<b>Case Reference</b>	ABP-323142-25
<b>Proposed Development Summary</b>	LRD comprising 16 apartments, 439 PBSA bed spaces, extension and renovation of 14 houses, flood defence and alleviation works to the south of Farmer Brown's Public House, and grade control structures to the Smurfit Weir.
<b>Development Address</b>	Former Paper Mills site, Clonskeagh 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 &amp; Development Regulations, 2001 (as amended)?</b>	
<input type="checkbox"/> Yes, it is a Class specified in Part 1.	State the Class here.
<input checked="" type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3.	
<b>3. Is the proposed development of a CLASS specified in Part 2 Schedule 5 Planning &amp; Development Regulations, 2001 (as amended), OR a prescribed type of proposed road</b>	

development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?	
<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 OR if Schedule 7A information submitted proceed to Q4.</b>	<p>Schedule 5 Part 2 Class 10 (b) (i) refers to 'Construction of more than 500 dwelling units'.</p> <p>Schedule 5 Part 2 Class 10 (b) (iv) refers to 'Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere. (In this paragraph, "business district" means a district within a city or town in which the predominant land use is retail or commercial use.)'</p> <p>Schedule 5 Part 2 Class 10 (f) (ii) refers to 'Canalisation and flood relief works, where the immediate contributing sub-catchment of the proposed works (i.e. the difference between the contributing catchments at the upper and lower extent of the works) would exceed 100 hectares or where more than 2</p>

	<p>hectares of wetland would be affected or where the length of river channel on which works are proposed would be greater than 2 kilometres’.</p> <p>Schedule 5 Part 2 Class 14 refers to ‘Works of demolition carried out in order to facilitate a project listed in Part 1 or Part 2 of this Schedule where such works would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7’.</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"/>	Screening determination required.
<b>No</b> <input type="checkbox"/>	

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

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

## **Appendix 2 – Environmental Impact Assessment (EIA) Screening Determination**



A. Case Details		
<b>An Coimisiún Pleanála Case Reference</b>	ABP-323142-25	
<b>Development Summary</b>	LRD comprising 16 apartments, 439 PBSA bed spaces, extension and renovation of 14 houses, flood defence and alleviation works to the south of Farmer Brown's Public House, and grade control structures to the Smurfit Weir.	
<b>Sub-threshold development class referred to under Schedule 5 of Planning &amp; Development Regulations, 2001 (as amended), or Article 8 of Roads Regulations 1994</b>	<p>Schedule 5 Part 2 Class 10 (b) (i) refers to 'Construction of more than 500 dwelling units'.</p> <p>Schedule 5 Part 2 Class 10 (b) (iv) refers to 'Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere. (In this paragraph, "business district" means a district within a city or town in which the predominant land use is retail or commercial use.)'</p> <p>Schedule 5 Part 2 Class 10 (f) (ii) refers to 'Canalisation and flood relief works, where the immediate contributing sub-catchment of the proposed works (i.e. the difference between the contributing catchments at the upper and lower extent of the works) would exceed 100 hectares or where more than 2 hectares of wetland would be affected or where the length of river channel on which works are proposed would be greater than 2 kilometres'.</p> <p>Schedule 5 Part 2 Class 14 refers to 'Works of demolition carried out in order to facilitate a project listed in Part 1 or Part 2 of this Schedule where such works would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7'.</p>	
	<b>Yes / No / N/A</b>	<b>Comment (if relevant)</b>
1. Was a Screening Determination carried out by the planning authority (PA)?	Yes	Section 15.0 (Environmental Impact Assessment) of the DCC Planning Report stated that the Planning Department considered the applicant's EIA Screening report and determined that the proposed development would not be likely to have significant effects on the environment and a mandatory EIA Report (EIAR) was not required.

2. Has Schedule 7A information been submitted?	Yes	An EIA Screening Report was submitted with the application, in addition to the other documentation addressing relevant environmental factors.
3. Has an AA Screening Report or NIS been submitted?	Yes	Both an Appropriate Assessment Screening Report and a Natura Impact Statement were submitted with the application.
4. Is an IED/IPC or Waste Licence (or review of licence) required from the EPA? If YES has the EPA commented on the need for an EIAR?	No	
5. Have any other relevant assessments of the effects on the environment which have a significant bearing on the project been carried out pursuant to other relevant Directives – for example SEA	Yes	In the EIA Screening Report, the applicant references the European Union Directive 2011/92/EU as amended by Directive 2014/52/EU (EIA Directive), the Water Framework Directive (referred to throughout the Hydrological and Hydrogeological Risk Assessment Report), the European Commission Directive 2000/14/EC (Noise), and the Birds and Habitats Directives (referenced throughout the AA Screening Report and the NIS).

B. Examination	Yes / No / Uncertain	Briefly describe the nature and extent and Mitigation Measures (where relevant) (having regard to the probability, magnitude (including population size affected), complexity, duration, frequency, intensity, and reversibility of impact)  Mitigation measures – Where relevant specify features or measures proposed by the applicant to avoid or prevent a significant effect.	Is this likely to result in significant effects on the environment?  Yes / No / Uncertain
<b>1. Characteristics of proposed development (including demolition, construction, operation, or decommissioning)</b>			
1.1 Is the project significantly different in character or scale to the existing surrounding or environment?	Yes	The pattern of development along Clonskeagh Road in the vicinity of the site is generally one or two storey buildings, though this is an inner suburban site as defined by the DCDP 2022-2028 and an urban neighbourhood in the context of the Compact Settlement Guidelines (2024). It is a vacant brownfield site within the footprint of the city in a location where compact growth is encouraged. The proposed development has a density of 275uph, and it is up to eight storeys in height. I consider it to be acceptable further to an assessment of the proposed development in the context of Table 3 (Performance Criteria in Assessing Proposals for Enhanced Height, Density and Scale) of appendix 3 of the Plan. The proposed heights are reduced in places where they are adjacent to adjoining properties, and the proposed development includes for the extension and renovation of 14 houses along the road where the existing streetscape would be maintained.	No.

1.2 Will construction, operation, decommissioning or demolition works cause physical changes to the locality (topography, land use, waterbodies)?	Yes	<p>Topographic changes would be limited. The land use on site would change from its currently vacant/largely unused condition to PBSA and residential together with significant alterations to the wider streetscape with minor ancillary commercial and community use.</p> <p>Though demolition would occur this would be relatively limited in scale and relate to extensions to existing houses along Clonskeagh Road to facilitate revised extensions and renovations.</p> <p>A flood wall is to be constructed/extended west of Clonskeagh Bridge for approx. 100 metres on the north side of the Dodder. The Smurfit Weir within the river, adjacent to site, is to be partially revised to facilitate the upstream migration of aquatic species.</p>	No
1.3 Will construction or operation of the project use natural resources such as land, soil, water, materials/minerals or energy, especially resources which are non-renewable or in short supply?	Yes	The site comprises vacant brownfield former industrial land. Construction materials would be typical for an urban development of this nature and scale. There is no significant use of natural resources during the operational phase.	No

1.4 Will the project involve the use, storage, transport, handling or production of substance which would be harmful to human health or the environment?	Yes	Construction activities would require use of potentially harmful materials e.g. hydrocarbons, however these are typical of construction sites. A Construction Environmental Management Plan (CEMP) is submitted with the application. No operational phase impacts in this regard are anticipated.	No
1.5 Will the project produce solid waste, release pollutants or any hazardous / toxic / noxious substances?	Yes	This is a standard residential/PBSA development. Typical construction phase activities would be carried out resulting in, for example, noise, dust, and waste materials. These would be temporary and localised. Both a CEMP and a Construction & Demolition Management Plan are submitted with the application. During the operational phase foul effluent would be discharged to the public system and an Operational Waste Management Plan has been submitted.	No
1.6 Will the project lead to risks of contamination of land or water from releases of pollutants onto the ground or into surface waters, groundwater, coastal waters or the sea?	No	This is a standard residential/PBSA development and no significant risk is identified on this brownfield site. The Dodder River is adjacent to the site. Construction phase works would be carried out in line with the CEMP which contains relevant mitigation measures. In the operational phase, surface water from the site would be discharged to the Dodder after appropriate sustainable urban drainage systems (SuDS) treatment. A standard condition that surface water disposal shall comply with the requirements of the planning authority would be attached to any grant of permission. Works proposed to the west of Clonskeagh Bridge and the Smurfit Weir are also addressed within the CEMP.	No

1.7 Will the project cause noise and vibration or release of light, heat, energy or electromagnetic radiation?	Yes	The development is a standard residential/PBSA development. There is potential for construction activity to give rise to noise and vibration emissions. Such emissions will be localised and short term in nature, and their impacts would be suitably mitigated by measures contained in the Construction Management Plan and CEMP. Operational public lighting would be controlled by a Public Lighting Design Report, of which a final design can be agreed with the planning authority.	No
1.8 Will there be any risks to human health, for example due to water contamination or air pollution?	No	Normal construction phase impacts for would be mitigated as per the CEMP. No operational phase impacts are anticipated.	No
1.9 Will there be any risk of major accidents that could affect human health or the environment?	No	There would be no particular risk having regard to the nature and scale of development. The site has been subject of a Flood Risk Assessment (FRA).	No
1.10 Will the project affect the social environment (population, employment)	Yes	The proposed development would result in a change of use of the site and an increase in population through the provision of both apartments and PBSA. There would be an increase in employment during the construction phase with limited operational phase employment in the PBSA. Increased population is a positive impact that would provide additional support for existing services in the area.	No

1.11 Is the project part of a wider large scale change that could result in cumulative effects on the environment?	No	The proposed development is a brownfield site located in an established urban area.	No
<b>2. Location of Proposed Development</b>			
2.1 Is the proposed development located on, in, adjoining or have the potential to impact on any of the following: (i) European site (SAC/ SPA/ pSAC/ pSPA), (ii) NHA/ pNHA, (iii) Designated Nature Reserve, (iv) - Designated refuge for flora or fauna, (v) Place, site or feature of ecological interest, the preservation / conservation / protection of which is an objective of a development plan/LAP/ draft plan or variation of a plan.	Yes	<p>The nearest areas of natural heritage designation are South Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA, and South Dublin Bay pNHA approx. 2.1km to the east of the subject site, and Grand Canal pNHA approx. 2.1km to the north.</p> <p>It has been concluded after appropriate assessment (AA) screening that there is potential for significant effects on six SACs and SPAs. AA has been undertaken having regard to the documentation on file, including the NIS. This EIA screening determination addresses the characteristics of the proposed development, its location and the types and characteristics of potential impacts and has also had regard to the mitigation measures proposed. I have addressed impacts on European sites in Section 10 and appendices 3 and 4 of my report. I am satisfied that there is no potential for significant effects on the European sites or the pNHA (to which there is no source-pathway-receptor link).</p> <p>There are no designated nature reserves, designated refuges for flora or fauna, or places, sites, or features of particular or notable ecological interest in the area though the EclA noted the presence, inter alia, of some rare plant species, invasive species, and otter activity in the vicinity.</p>	No

2.2 Could any protected, important or sensitive species of flora or fauna which use areas on or around the site, for example: for breeding, nesting, foraging, resting, over-wintering, or migration, be affected by the project?	Yes	<p>Sensitive mobile species associated with the European sites e.g. otter, are addressed in the AA section of this report.</p> <p>An EcIA, a Fish Passage Design Report, and a Biodiversity Enhancement &amp; Management Plan were submitted with the application, the contents of which are summarised in paragraphs 9.4.3-9.4.5. I have no concern about the proposed development in the context of biodiversity, subject to the inclusion of appropriate conditions in any grant of permission that may issue.</p>	No
2.3 Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?	Yes	<p>The application was supported by a Townscape and Visual Impact Assessment, Verified Photomontages and CGI Views, an Architectural Heritage Impact Assessment, and an Archaeological Impact Assessment Report. I have addressed these issues in this report, including in sub-sections 9.3 (under the Visual Impact subheading) and 9.6. There are no landscapes of particular sensitivity in the vicinity and there are no protected structures on site. Clonskeagh Bridge (DU022-090 (Bridge)) comprises a Zone of Archaeological Constraint. The 14 terraced houses are of architectural conservation interest and the weir and post-medieval industrial heritage features recorded on site are of industrial heritage interest. Notwithstanding, none of these are of such interest that would require anything other than standard mitigation measures.</p>	No



2.4 Are there any areas on/around the location which contain important, high quality or scarce resources which could be affected by the project, for example: forestry, agriculture, water/coastal, fisheries, minerals?	Yes	The proposed development involves beneficial works for fisheries in that the works to the weir would facilitate easier upstream migration by aquatic species.	No
2.5 Are there any water resources including surface waters, for example: rivers, lakes/ponds, coastal or groundwaters which could be affected by the project, particularly in terms of their volume and flood risk?	Yes	The site is adjacent to the River Dodder, which is highly modified in this area by bankside walls and weirs. The site is in an area identified as Flood Zone A/B. The works proposed provide for, inter alia, flood walls along the eastern site boundary (replacing existing walls), a flood defence wall to replace the existing railing to the western side of Clonskeagh Bridge, a flood defence wall and embankment to the south of Farmer Brown's public house, and lowering the sluice gates and providing grade control structures to the Smurfit Weir. The alterations to the bridge, and to the west of it, have been designed with DCC and form part of a wider flood alleviation scheme. The application was accompanied by, inter alia, an FRA and a Hydrological and Hydrogeological Risk Assessment Report (HHRAR). I have addressed the flooding issue in sub-section 9.5 and I have addressed the issue of water quality in section 11 (Water Framework Directive).	No
2.6 Is the location susceptible to subsidence, landslides or erosion?	No	There is no evidence of these risks.	No

2.7 Are there any key transport routes (e.g. national primary roads) on or around the location which are susceptible to congestion or which cause environmental problems, which could be affected by the project?	No	The site is served by a local road network. No significant contribution to traffic congestion is anticipated to arise from the proposed development. Only 33 car parking spaces are proposed. There site is in an intermediate location as regards public transport.	No
2.8 Are there existing sensitive land uses or community facilities (such as hospitals, schools etc) which could be affected by the project?	Yes	The site is in close proximity to residential areas and a number of business premises. Clonskeagh Hospital is on the west side of Clonskeagh Road. However, there is no undue negative impact anticipated as a result of the proposal other than standard construction phase nuisance which would be appropriately mitigated through a CEMP and a Construction Management Plan, as standard.	No
<b>3. Any other factors that should be considered which could lead to environmental impacts</b>			

3.1 Cumulative Effects: Could this project together with existing and/or approved development result in cumulative effects during the construction/operation phase?	No	Sub-section 5.1.15 of the applicant's EIA Screening Report outlines four planning permissions within a 1km radius of the site. It considered that there are no means for the proposed development to act in-combination that would cause any likely significant adverse effects on any element of the surrounding environment. Given the distances to the other sites, I agree. The 'River Dodder (Clonskeagh Road Bridge to Orwell Road Bridge) Flood Alleviation Scheme Phase 3', of which a portion of the proposed development forms part, is not referenced. Notwithstanding, given that the remainder of the scheme is further away from the subject site I do not consider that there would be significant in-combination effects that would give rise to significant cumulative environmental effects with the subject project.	No
3.2 Transboundary Effects: Is the project likely to lead to transboundary effects?	No	N/A	No
3.3 Are there any other relevant considerations?	No	N/A	No
<b>C. Conclusion</b>			
<b>No real likelihood of significant effects on the environment</b>	<input checked="" type="checkbox"/>	EIAR not required	
<b>Real likelihood of significant effects on the environment</b>	<input type="checkbox"/>	EIAR required	

## D. Main Reasons and Considerations

Having regard to:

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

(a) the relatively limited nature and scale of the proposed housing/PBSA development, on a brownfield site in an inner suburban location served by public infrastructure,

(b) the absence of any significant environmental sensitivity in the vicinity, and,

(c) the location of the development outside of any sensitive location specified in article 109 (4)(a) of the Planning & Development Regulations, 2001 (as amended).

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

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

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

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Inspector

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Date

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Approved (DP/ADP)

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Date

## Appendix 3 – Appropriate Assessment (AA) Screening

Screening for Appropriate Assessment (AA)	
Test for likely significant effects	
Case File: ACP-323142-25	
Step 1- Description of the project and local site characteristics	
<b>Brief description of project</b>	LRD comprising 16 apartments, 439 PBSA bed spaces, renovation and extension of 14 houses, flood defence and alleviation works to the south of Farmer Brown's Public House, and amendment and grade control structures to the Smurfit Weir.
<b>Brief description of development site characteristics and potential impact mechanisms</b>	<p>The main development site is a vacant brownfield former industrial site in an inner suburban location. Existing development in the vicinity is a mixture of commercial and residential and is low-rise in character. The main development site area is largely to the rear of a row of properties along Clonskeagh Road. It is relatively flat and below the road level and FFLs of the existing properties. There is a line of trees and vegetation along the southern and eastern boundary.</p> <p>The River Dodder runs along the southern and eastern boundary in a northerly direction. The proposed development includes flood defence and alleviation works west of Clonskeagh Bridge and in-stream works to Smurfit Weir.</p> <p>Foul water would discharge to the public system (to a combined sewer) and surface water would discharge to the Dodder following SuDS treatment.</p>
<b>Screening report</b>	An Appropriate Assessment Screening Report dated April 2025 was submitted with the planning application. An Otter Survey Report was attached as an appendix.
<b>Natura Impact Statement (NIS)</b>	A Natura Impact Statement (NIS) was also submitted with the planning application.
<b>Relevant submissions</b>	<p>AA-related issues were not raised in the grounds of appeal, observations made on foot of same, or the submissions received by DCC.</p> <p>An observation was received by DCC from IFI. While this observation makes reference to the fact that the Dodder has populations of species listed in the Habitats Directive it does not make any specific references to AA, though it does recommend that all site-specific targeted measures within the NIS should be conditioned and enforced. DCC's Parks, Biodiversity and</p>

	<p>Landscape Services report refers to AA in sub-section 2.5.3 and concludes that it has no objection to the application subject to conditions. Section 14.0 of the DCC Planning Report states 'The Planning Authority ... can therefore satisfactorily conclude that ... the proposed works do not pose a risk adversely affecting the integrity of any Natura 2000 site, either alone or in-combination with other plans or projects'.</p> <p>I would draw the Commission's attention to the fact that on 3<sup>rd</sup> September 2025 comments were sought by the Commission from the Department of Housing, Local Government and Heritage (Development Applications Unit), The Heritage Council, and An Taisce, specifically citing six European sites. A response was received from the Department. It noted the requirement for a derogation licence in relation to otters but that none had been permitted to date [I note that a derogation licence was granted on 8<sup>th</sup> October 2025 (DER-OTTER-2025-14), as per the publicly available <a href="http://www.npws.ie">www.npws.ie</a> website. It covers the period 8<sup>th</sup> October 2025-31<sup>st</sup> December 2025]. The Department accepts that, provided NIS mitigation is implemented in full, the proposed development should have no adverse effects on European sites. A service and maintenance contract for SuDS should be included as a condition should permission be granted. The Department also supports IFI's suggestion that Uisce Éireann be requested to confirm that the sewage conveyance network is capable of conveying waste to Ringsend wastewater treatment plant without risk to the aquatic environment. [I note that Uisce Éireann has not indicated any concern in this regard)</p>
<p><b>Step 2 – Identification of relevant European sites using the source-pathway-receptor model</b></p> <p>The applicant's AA Screening Report identified six European sites that it considered to be within the zone of influence (ZoI) of the proposed development. I concur that these are the sites within the ZoI.</p> <p>I am unclear as to how the Screening Report calculated distances from SACs and SPAs. Table 3 of the Screening Report stated that both North Dublin Bay SAC and South Dublin Bay SAC are approx. 7km downstream of the subject site. The point of discharge of the Dodder into the Liffey is approx. 3.7km downstream of the subject site, Dublin Bay North SAC is a further 5km away from the discharge point, therefore it is approx. 8.7km away in a direct hydrological path across the Dodder, the Liffey, and Dublin Bay. Similarly, Dublin Bay South SAC is approx. 6.3km, hydrologically, from the point of discharge to the Liffey, therefore it is approx. 10km hydrologically from the subject site. Although as the crow flies the distance from the Dodder/Liffey confluence is much closer (approx. 1.5km), the wall/walkway to Poolbeg Lighthouse significantly increases the actual hydrologic distance. In addition, Wicklow Mountains SAC is approx. 13.1km upstream (given that the only possible affected qualifying interest (QI) could be otter), whereas table 3 cites a distance of approx.</p>	

9km. South Dublin Bay and River Tolka Estuary SPA is only approx. 2.1km from the site but the Screening Report cites 7km.

**Table 1**

European site (code)	Qualifying interests (QI) / Special conservation interests (SCI)	Distance from proposed development	Ecological connections
North Dublin Bay SAC (000206)	<p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Annual vegetation of drift lines [1210]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows [1330]</p> <p>Mediterranean salt meadows [1410]</p> <p>Embryonic shifting dunes [2110]</p> <p>Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120]</p> <p>Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]</p> <p>Humid dune slacks [2190]</p> <p>Petalwort [1395]</p> <p><a href="https://www.npws.ie/protected-sites/sac/000206">https://www.npws.ie/protected-sites/sac/000206</a></p>	Approx 6.2km to the north east as the crow flies and approx. 8.7km hydrologically downstream	Hydrology
South Dublin Bay SAC (000210)	<p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Annual vegetation of drift lines [1210]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Embryonic shifting dunes [2110]</p> <p><a href="https://www.npws.ie/protected-sites/sac/000210">https://www.npws.ie/protected-sites/sac/000210</a></p>	Approx 2.1km to the east as the crow flies and approx. 10km hydrologically downstream	Hydrology
Wicklow Mountains SAC (002122)	<p>Oligotrophic waters ... [3110]</p> <p>Natural dystrophic lakes and ponds [3160]</p>	Approx. 9.1km to the south west as the	Hydrology (mobile species)

	<p>Northern Atlantic wet heaths with <i>Erica tetralix</i> [4010]</p> <p>European dry heaths [4030]</p> <p>Alpine and Boreal heaths [4060]</p> <p>Calaminarian grasslands ... [6130]</p> <p>Species-rich <i>Nardus</i> grasslands... [6230]</p> <p>Blanket bogs (* if active bog) [7130]</p> <p>Siliceous scree of the montane to snow levels [8110]</p> <p>Calcareous rocky slopes with chasmophytic vegetation [8210]</p> <p>Siliceous rocky slopes with chasmophytic vegetation [8220]</p> <p>Old sessile oak woods ... [91A0]</p> <p>Otter [1355]</p> <p><a href="https://www.npws.ie/protected-sites/sac/002122">https://www.npws.ie/protected-sites/sac/002122</a></p>	<p>crow flies and approx. 13.1km hydrologically upstream</p>	
South Dublin Bay and River Tolka Estuary SPA (004024)	<p>13 waterbirds plus wetlands</p> <p><a href="https://www.npws.ie/protected-sites/spa/004024">https://www.npws.ie/protected-sites/spa/004024</a></p>	<p>Approx 2.1km to the east as the crow flies</p>	Air (mobile species)
North Bull Island SPA(004006)	<p>17 waterbirds plus wetlands</p> <p><a href="https://www.npws.ie/protected-sites/spa/004006">https://www.npws.ie/protected-sites/spa/004006</a></p>	<p>Approx. 6.1km to the north east as the crow flies</p>	Air (mobile species)
North-west Irish Sea SPA (004236)	<p>21 waterbirds</p> <p><a href="https://www.npws.ie/protected-sites/spa/004236">https://www.npws.ie/protected-sites/spa/004236</a></p>	<p>Approx 6.7km to the north east as the crow flies</p>	Air (mobile species)

The planning application has been accompanied by a number of relevant documents in addition to the AA Screening Report and the NIS e.g. EclA, Fish Passage Design Report, Biodiversity Enhancement & Management Plan, and FRA. These are summarised in paragraphs 9.4.3-9.4.5 and referenced in sub-section 9.5. Signs of otter were recorded at and close to the subject site. A (very limited) wintering bird survey was carried out on site on 11<sup>th</sup> February 2025. Invasive species were also noted on site. It is proposed to carry out flood defence and alleviation works on the north side of the Dodder to the west of Clonskeagh Bridge and also in-stream works adjacent to the site area to



significantly improve the ability of aquatic species to travel further upstream of the Smurfit Weir.

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

The proposed development would not result in any direct effects on any SAC or SPA. However, due to the size and scale of the proposed development, the hydrological connections, and the relative proximity to SPAs, impacts generated by the construction and operation of the proposed development requires consideration.

The applicant's AA Screening Report screened in 'disturbance and/or displacement of species' for the SPAs. Although two SCI species (black-headed gull and herring gull) of the three SPAs were noted in flight, they were not using the site. Given the brownfield nature of the main body of the site with the main habitat being spoil and bare ground with areas of recolonising bare ground and scrub, the distance from the nearest SPA, and the extent of built fabric in the vicinity, I do not consider that it could be concluded that the proposed development is an important ex-situ site for SCI species and that the proposed development would have a likely significant effect on them. Though a pair of mallard were noted using the Dodder this species is not an SCI of any SPA in Counties Dublin or Wicklow.

Sources of impact and likely significant effects are detailed in Table 2.

**Table 2 – Screening Matrix**

Site Name	Possibility of significant effects (alone) in view of the conservation objectives of the site	
	Impacts	Effects
North Dublin Bay SAC	1. Dissemination downstream of invasive species during construction works.  2. Deterioration of surface water quality arising from pollution from surface water runoff during site preparation and construction.	1. Alteration/fragmentation of habitat.  2. Water quality may be negatively affected.
	Likelihood of significant effects from proposed development (alone): <b>Yes</b>	
	If No, is there likelihood of significant effects occurring in combination with other plans or projects?	
	Impacts	Effects
South Dublin Bay SAC	As per North Dublin Bay SAC, above.	As per North Dublin Bay SAC, above.

	Likelihood of significant effects from proposed development (alone): <b>Yes</b>	
	If No, is there likelihood of significant effects occurring in combination with other plans or projects?	
	<b>Impacts</b>	<b>Effects</b>
Wicklow Mountains SAC	1. Deterioration of surface water quality arising from pollution from surface water runoff during site preparation and construction.  2. Construction phase noise and nuisance to otters.	1. Water quality may be negatively affected impacting on ex-situ otters.  2. Disturbance to ex-situ otters.
	Likelihood of significant effects from proposed development (alone): <b>Yes</b>	
	If No, is there likelihood of significant effects occurring in combination with other plans or projects?	
	<b>Impacts</b>	<b>Effects</b>
South Dublin Bay and River Tolka Estuary SPA	1. Deterioration of surface water quality arising from pollution from surface water runoff during site preparation and construction	1. Water quality may be negatively affected impacting SCI species.
	Likelihood of significant effects from proposed development (alone): <b>Yes</b>	
	If No, is there likelihood of significant effects occurring in combination with other plans or projects?	
	<b>Impacts</b>	<b>Effects</b>
North Bull Island SPA	As per South Dublin Bay and River Tolka Estuary SPA.	As per South Dublin Bay and River Tolka Estuary SPA.
	Likelihood of significant effects from proposed development (alone): <b>Yes</b>	
	If No, is there likelihood of significant effects occurring in combination with other plans or projects?	
	<b>Impacts</b>	<b>Effects</b>
North-west Irish Sea SPA	As per South Dublin Bay and River Tolka Estuary SPA.	As per South Dublin Bay and River Tolka Estuary SPA.
	Likelihood of significant effects from proposed development (alone): <b>Yes</b>	
	If No, is there likelihood of significant effects occurring in combination with other plans or projects?	

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

Based on the information provided in the screening report, site visit, review of the conservation objectives and supporting documents, I consider that in the absence of mitigation measures beyond best practice construction methods, the proposed development has the potential to result in significant effects on North Dublin Bay SAC, South Dublin Bay SAC, Wicklow Mountains SAC, South Dublin Bay and River Tolka Estuary SPA, North Bull Island SPA, and North-west Irish Sea SPA.

I generally concur with the applicant's findings that such impacts could be significant in terms of the stated conservation objectives of the SACs and SPAs when considered on their own and in combination with other projects and plans.

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**Screening Determination****Finding of likely significant effects**

In accordance with Section 177U of the Planning & Development Act, 2000 (as amended), and on the basis of objective information provided by the applicant, I conclude that the proposed development could result in significant effects on North Dublin Bay SAC, South Dublin Bay SAC, Wicklow Mountains SAC, South Dublin Bay and River Tolka Estuary SPA, North Bull Island SPA, and North-west Irish Sea SPA in view of the conservation objectives of those sites.

It is therefore determined that AA (stage 2) of the proposed development is required.

## **Appendix 4 – Appropriate Assessment (AA)**

Appropriate Assessment
<p>The requirements of Article 6(3) as related to AA of a project under part XAB, section 177V of the Planning &amp; Development Act, 2000 (as amended), are considered fully in this section.</p>
<p>Taking account of the preceding screening determination, the following is an AA of the implications of the proposed PBRA/residential development in view of the relevant conservation objectives of North Dublin Bay SAC, South Dublin Bay SAC, Wicklow Mountains SAC, South Dublin Bay and River Tolka Estuary SPA, North Bull Island SPA, and North-west Irish Sea SPA based on scientific information provided by the applicant.</p> <p>The information relied upon includes the following:</p> <ul style="list-style-type: none"> <li>- the Appropriate Assessment Screening Report and Natura Impact Statement dated April 2025,</li> <li>- EIA Screening Report dated April 2025,</li> <li>- Ecological Impact Assessment Report (EcIA) dated April 2025,</li> <li>- Biodiversity Enhancement &amp; Management Plan dated April 2025,</li> <li>- Construction Environmental Management Plan (CEMP) dated April 2025,</li> <li>- Hydrological and Hydrogeological Risk Assessment Report (HHRAR) dated April 2025,</li> <li>- Flood Risk Assessment' (FRA) dated April 2025,</li> <li>- Preliminary Construction Method Statement for the Construction of the Upstream Flood Relief Works (undated),</li> <li>- Fish Passage Design Report dated 24<sup>th</sup> March 2025, and,</li> <li>– the provisions of the publicly available NPWS website (<a href="http://www.npws.ie">www.npws.ie</a>) accessed on 21<sup>st</sup> October 2025.</li> </ul> <p>I am satisfied that the information provided is adequate to allow for AA. All aspects of the project which could result in significant effects are considered and assessed in the NIS and associated documentation and mitigation measures designed to avoid or reduce any adverse effects on site integrity are included and assessed for effectiveness.</p>
<p><b>Submissions / observations</b></p> <p>These are summarised in Step 1 of Appendix 3. AA was not an issue of particular significance raised in third party submissions or observations.</p>
<p><b>European Sites</b></p>

**North Dublin Bay SAC (site code 000206)****Summary of key issues that could give rise to adverse effects (from screening stage):**

**1. Dissemination downstream of invasive species during construction works.**

**2. Deterioration of surface water quality arising from pollution from surface water runoff during site preparation and construction.**

**See table 3 of the NIS**

<b>QI features likely to be affected [habitat / species code]</b>	<b>Conservation objectives – attributes and targets (as relevant – summary)</b>	<b>Potential adverse effects</b>	<b>Mitigation measures (summary) – See NIS section 5.6</b>
Mudflats and sandflats not covered by seawater at low tide [1140]	Maintain favourable conservation condition  Community structure: Conserve the high quality of the community	1. Introduction of invasive species.  2. Deterioration of water quality	Invasive species mitigation is set out in sub-section 5.6.1.4 of the NIS and surface water protection measures are set out in sub-section 5.6.1.1.1
Salicornia and other annuals colonising mud and sand [1310]	Restore favourable conservation condition  Maintain physical structure and vegetation structure and composition	As above	
Atlantic salt meadows [1330]	Maintain favourable conservation condition  Maintain physical structure and vegetation structure and composition	As above	
Mediterranean salt meadows [1410]	As above	As above	

Other QIs		
Annual vegetation of drift lines [1210], 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], Petalwort [1395]	Not at risk	<p>Rationale for exclusion:</p> <ul style="list-style-type: none"> <li>• No impact pathway between proposed development and recorded locations of habitat.</li> <li>• Pressures on habitat associated with recreation and coastal defence.</li> <li>• Terrestrial habitats.</li> </ul>

## **Assessment of issues that could give rise to adverse effects**

### **1. Dissemination downstream of invasive species during construction works.**

A number of invasive species were found on site during field surveys. Disturbance of invasive species during the construction phase could result in them entering the Dodder and disseminating downstream including possibly to the SAC where they could affect the physical structure and vegetation structure and composition of QIs.

#### Mitigation measures and conditions

The NIS states that an Invasive Alien Species (IAS) Survey will be carried out by a specialist prior to works taking place on site. An IAS Management Plan will detail measures to treat and prevent the spread of IAS. The Plan will be incorporated into the CEMP. Biosecurity measures will be strictly adhered to throughout the works. Post-completion IAS checks will be carried out until eradication of IAS is complete.

### **2. Deterioration of surface water quality arising from pollution from surface water runoff during site preparation and construction.**

The site is adjacent to the River Dodder which has hydrological links to a number of SACs and SPAs. Contaminated surface water could discharge from the site during the construction phase, flow downstream, and affect the physical structure and vegetation structure and composition of QIs. The application also involves flood defence and alleviation works to the north bank of the Dodder west of Clonskeagh Bridge and in-stream works associated with the amendments to Smurfit Weir to facilitate easier upstream movement of aquatic species.

#### Mitigation measures and conditions

The NIS sets out relevant mitigation measures under two main headings:

*CEMP* – This will contain the environmental control measures. It will be a live document and will capture all environmental mitigation contained in the NIS, EclA, planning conditions etc. A project ecologist/ECOW will be appointed. Additional mitigation is set out under sub-headings of prevention of pollution/siltation of surface/groundwaters (where specific mention is made to the flood relief works at Farmer Brown's), prevention of hydrocarbon/chemical contaminant impacts, prevention of cement related impacts (again, specific mention is made to the flood relief works at Farmer Brown's), general material import measures, and emergency response plan.

*Lowering of sluice gates and retrofit grade control structures* – This states that during works on the weir the river will be protected from contaminants/pollutants. Works will be undertaken in accordance with the CEMP, the Preliminary Construction Method Statement for the Construction of the Upstream Flood Relief Works, and IFI guidance. It will be constructed before the main development starts and will be in accordance with any detailed IFI operational and construction requirements. Additional mitigation is set out under sub-headings of preliminaries/temporary works, rock armour/riprap



sourcing and delivery, stages of work, and environmental monitoring protocols and risk assessment for Smurfit Weir grade control system (GCS) fish pass.

#### **In-combination effects**

I am satisfied that in-combination effects have been assessed adequately in the AA Screening Report and NIS. There are no planning applications of particular note that could act in-combination to have significant environmental effects. The mitigation measures relating to protection of water quality will ensure that the proposed development does not contribute to any likely significant in-combination effects on any European sites. I agree with the applicant's conclusion in this regard.

#### **Findings and conclusions**

The applicant determined that following the implementation of mitigation measures, the construction and operation of the proposed development alone, or in combination with other plans and projects, would not adversely affect the integrity of this European site.

Based on the information provided I am satisfied that adverse effects arising from the proposed development can be excluded for North Dublin Bay SAC. No direct impacts are predicted. Indirect impacts would be temporary in nature and mitigation measures are described to, inter alia, prevent the spread of IAS and protect the river from pollution from construction activities. I am satisfied that the mitigation measures proposed to prevent such effects have been assessed as effective and can be implemented and conditioned if permission is granted.

#### **Reasonable scientific doubt**

I am satisfied that no reasonable scientific doubt remains as to the absence of adverse effects.

#### **Site integrity**

The proposed development would not affect the attainment of the conservation objectives of North Dublin Bay SAC. Adverse effects on site integrity can be excluded and no reasonable scientific doubt remains as to the absence of such effects.

#### **South Dublin Bay SAC (site code 000210)**

##### **Summary of key issues that could give rise to adverse effects (from screening stage):**

- 1. Dissemination downstream of invasive species during construction works.**
- 2. Deterioration of surface water quality arising from pollution from surface water runoff during site preparation and construction.**

**See table 3 of the NIS**

<b>QI features likely to be affected [habitat / species code]</b>	<b>Conservation objectives – attributes and targets (as relevant – summary)</b>	<b>Potential adverse effects</b>	<b>Mitigation measures (summary) – See NIS section 5.6</b>
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Mudflats and sandflats not covered by seawater at low tide [1140]	Maintain favourable conservation condition  Community structure: Conserve the high quality of the community	1. Introduction of invasive species.  2. Deterioration of water quality	Invasive species mitigation is set out in sub-section 5.6.1.4 of the NIS and surface water protection measures are set out in sub-section 5.6.1.1.1
Salicornia and other annuals colonising mud and sand [1310]	None contained in NPWS Conservation Objective Series document for this SAC	As above	

Other QIs		
Embryonic shifting dunes [2110], Annual vegetation of drift lines [1210]	Not at risk	<p>Rationale for exclusion:</p> <p>Both habitats are screened in in the NIS. No information in relation to them are contained in the NPWS Conservation Objectives Series document for this SAC. Both of the QIs are also QIs of North Dublin Bay SAC. The NIS excluded both of these from being at risk in North Dublin Bay SAC for reasons of being terrestrial habitats and pressures on the habitat are associated with recreation and coastal defence. This SAC is further, hydrologically, from the subject site than North Dublin Bay SAC. I consider that they can be excluded.</p>
<p><b>Assessment of issues that could give rise to adverse effects</b></p> <p><b>1. Dissemination downstream of invasive species during construction works</b></p> <p>As per North Dublin Bay SAC assessment.</p> <p><u>Mitigation measures and conditions</u></p> <p>As per North Dublin Bay SAC assessment.</p> <p><b>2. Deterioration of surface water quality arising from pollution from surface water runoff during site preparation and construction</b></p> <p>As per North Dublin Bay SAC assessment.</p> <p><u>Mitigation measures and conditions</u></p> <p>As per North Dublin Bay SAC assessment.</p>		
<p><b>In-combination effects</b></p> <p>As per North Dublin Bay SAC</p>		

**Findings and conclusions**

The applicant determined that following the implementation of mitigation measures, the construction and operation of the proposed development alone, or in combination with other plans and projects, would not adversely affect the integrity of this European site.

Based on the information provided I am satisfied that adverse effects arising from the proposed development can be excluded for South Dublin Bay SAC. No direct impacts are predicted. Indirect impacts would be temporary in nature and mitigation measures are described to, inter alia, prevent the spread of IAS and protect the river from pollution from construction activities. I am satisfied that the mitigation measures proposed to prevent such effects have been assessed as effective and can be implemented and conditioned if permission is granted.

**Reasonable scientific doubt**

I am satisfied that no reasonable scientific doubt remains as to the absence of adverse effects.

**Site integrity**

The proposed development would not affect the attainment of the conservation objectives of South Dublin Bay SAC. Adverse effects on site integrity can be excluded and no reasonable scientific doubt remains as to the absence of such effects.

**Wicklow Mountains SAC (site code 002122)****Summary of key issues that could give rise to adverse effects (from screening stage):**

**1. Deterioration of surface water quality arising from pollution from surface water runoff during site preparation and construction.**

**2. Construction phase noise and nuisance to otters**

**See table 3 of the NIS**

<b>QI features likely to be affected [habitat / species code]</b>	<b>Conservation objectives – attributes and targets (as relevant – summary)</b>	<b>Potential adverse effects</b>	<b>Mitigation measures (summary) – See NIS section 5.6</b>
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Otter [1355]	<p>Maintain favourable conservation condition</p> <p>Targets include no significant declines in the extent of terrestrial or freshwater habitats, couching sites and holts, or fish biomass, and no significant increase in barriers to connectivity</p>	<p>1. Deterioration of water quality affecting fish biomass.</p> <p>2. Construction phase noise and disturbance impacting on otter activity in the vicinity of the site</p>	<p>Surface water protection measures are set out in sub-section 5.6.1.1.1 of the NIS.</p> <p>Otter protection measures are set out in sub-section 5.6.1.3.</p>
Other QIs			
<p>Oligotrophic waters ... [3110], Natural dystrophic lakes and ponds [3160], Northern Atlantic wet heaths with Erica tetralix [4010], European dry heaths [4030], Alpine and Boreal heaths [4060], Calaminarian grasslands ... [6130], Species-rich Nardus grasslands... [6230], Blanket bogs (* if active bog) [7130], Siliceous scree of the montane to snow levels [8110], Calcareous rocky slopes with chasmophytic vegetation [8210],</p>	Not at risk	<p>Rationale for exclusion:</p> <ul style="list-style-type: none"> <li>No impact pathway exists to upstream habitats a considerable distance from the subject site.</li> </ul>	

<p>Siliceous rocky slopes with chasmophytic vegetation [8220], Old sessile oak woods ... [91A0]</p>		
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## **Assessment of issues that could give rise to adverse effects**

### **1. Deterioration of surface water quality arising from pollution from surface water runoff during site preparation and construction**

The site is adjacent to the River Dodder. Contaminated surface water could discharge from the site during the construction phase affecting the availability of fish biomass for the otters. The application also involves flood defence and alleviation works to the north bank of the Dodder west of Clonskeagh Bridge and in-stream works associated with the amendments to Smurfit Weir to facilitate easier upstream movement of aquatic species. This would likely improve access to fish biomass for upstream otters associated with the SAC.

#### Mitigation measures and conditions

As per North Dublin Bay SAC assessment.

### **2. Construction phase noise and nuisance to otters.**

Two holts and two couches were recorded on/adjacent to the site, shown on figure 8 of the NIS. No direct physical disturbance to holts will occur, though there could be construction phase disturbance. As such a derogation licence from NPWS is required.

#### Mitigation measures and conditions

Otter protection mitigation is set out under sub-section 5.6.1.3 of the NIS. A derogation licence is required and it is stated 'application currently underway at time of writing' (the NIS is dated April 2025). It is being applied for 'as a precaution ... if the holts or couches are in active use during the Construction Phase' [sic].

Other measures set out include a pre-commencement otter survey, a trail camera monitoring programme, works scheduled outside critical breeding periods, installation of acoustic barriers, preservation of scrub and treeline vegetation, and minimisation of human activity.

An otter derogation licence was granted to the applicant on 8<sup>th</sup> October 2025 (DER-OTTER-2025-14), as per the publicly available [www.npws.ie](http://www.npws.ie) website. This covers the period 8<sup>th</sup> October 2025-31<sup>st</sup> December 2025.

### **In-combination effects**

I am satisfied that in-combination effects have been assessed adequately in the AA Screening Report and NIS. There are no planning applications of particular note that could act in-combination to have significant environmental effects. The AA Screening Report (sub-section 5.2.6.2) references the Dodder Greenway which would run along the opposite bank of the Dodder and which could have a temporary and indirect impact on otters. This would also require a derogation licence. The mitigation measures relating to protection of water quality will ensure that the proposed development does not contribute to any likely significant in-combination effects on any European sites. I agree with the applicant's conclusion in this regard.

**Findings and conclusions**

The applicant determined that following the implementation of mitigation measures, the construction and operation of the proposed development alone, or in combination with other plans and projects, would not adversely affect the integrity of this European site.

Based on the information provided I am satisfied that adverse effects arising from the proposed development can be excluded for Wicklow Mountains SAC. No direct impacts are predicted. Indirect impacts would be temporary in nature and mitigation measures are described to, inter alia, protect the river from pollution from construction activities, thereby protecting fish biomass on which otters feed, and reduce noise and disturbance to otters, an ex-situ species of the SAC to which there is hydrological connectivity. I am satisfied that the mitigation measures proposed to prevent such effects have been assessed as effective and can be implemented and conditioned if permission is granted. The applicant currently has a derogation licence.

**Reasonable scientific doubt**

I am satisfied that no reasonable scientific doubt remains as to the absence of adverse effects.

**Site integrity**

The proposed development would not affect the attainment of the conservation objectives of Wicklow Mountains SAC. Adverse effects on site integrity can be excluded and no reasonable scientific doubt remains as to the absence of such effects.

**South Dublin Bay and River Tolka Estuary SPA (site code 004024)****North Bull Island SPA (site code 004006)****North-west Irish Sea SPA (site code 004232)**

These three SPAs are being considered in the same table because of the similarities among all three sites.

**Summary of key issues that could give rise to adverse effects (from screening stage):**

1. Deterioration of surface water quality arising from pollution from surface water runoff during site preparation and construction.

See table 3 of the NIS

SCI features likely to be affected [habitat / species code]	Conservation objectives – attributes and targets (as relevant – summary)	Potential adverse effects	Mitigation measures (summary) – See NIS section 5.6
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<u>South Dublin Bay and River Tolka Estuary SPA</u>  13 waterbird species plus wetlands	<p>Maintain favourable conservation condition for all species and habitat (except grey plover [A141] which is proposed for removal from the list of SCIs for the SPA. A site-specific conservation objective has not been set).</p> <p>Nine SCIs have targets that the long-term population trend is stable or increasing and that there is no significant decrease in the range, timing or intensity of use of areas by each SCI, other than that occurring from natural patterns of variation.</p> <p>Three tern species [A192, A193, and A194] have more detailed attributes, measures, and targets, including a target of no significant decline in prey biomass availability.</p>	1. Deterioration of water quality affecting fish biomass	Surface water protection measures are set out in sub-section 5.6.1.1.1
<u>North Bull Island SPA</u>  17 waterbird species plus wetlands	<p>Maintain favourable conservation condition of all 17 SCI species and wetland habitat.</p> <p>All SCI species have targets that the long-term population trend is stable or increasing and that there is no significant decrease in the range, timing or intensity of use of areas by each SCI, other than that occurring from natural patterns of variation.</p>	As above	As above

<p><u>North-west Irish Sea SPA</u></p> <p>21 waterbird species</p>	<p>Maintain favourable conservation condition of A001, A003, A013, A065, A179, A182, A183, A187, A192, A193, A194, A195, A199, A200, and A862 (15 no).</p> <p>Restore favourable conservation condition of A009, A017, A018, A184, A188, and A204 (6 no).</p> <p>All SCIs have detailed attributes, measures, and targets. Each SCI has a target for sufficient availability of forage biomass to support the population target.</p>	<p>As above</p>	<p>As above</p>
<p><b>Assessment of issues that could give rise to adverse effects</b></p> <p><b>1. Deterioration of surface water quality arising from pollution from surface water runoff during site preparation and construction</b></p> <p>The site is adjacent to the River Dodder which has hydrological links to a number of SACs and SPAs. Contaminated surface water could discharge from the site during the construction phase, flow downstream, and affect the availability of fish biomass for SPA SCIs.</p> <p><u>Mitigation measures and conditions</u></p> <p>As per North Dublin Bay SAC assessment.</p>			
<p><b>In-combination effects</b></p> <p>I am satisfied that in-combination effects have been assessed adequately in the AA Screening Report and NIS. There are no planning applications of particular note that could act in-combination to have significant environmental effects. The mitigation measures relating to protection of water quality will ensure that the proposed development does not contribute to any likely significant in-combination effects on any European sites. I agree with the applicant's conclusion in this regard.</p>			

**Findings and conclusions**

The applicant determined that following the implementation of mitigation measures, the construction and operation of the proposed development alone, or in combination with other plans and projects, would not adversely affect the integrity of this European site.

Based on the information provided I am satisfied that adverse effects arising from the proposed development can be excluded for South Dublin Bay and River Tolka Estuary SPA, North Bull Island SPA, and North-west Irish Sea SPA. No direct impacts are predicted. Indirect impacts would be temporary in nature and mitigation measures are described to, inter alia, protect the river from pollution from construction activities. I am satisfied that the mitigation measures proposed to prevent such effects have been assessed as effective and can be implemented and conditioned if permission is granted.

**Reasonable scientific doubt**

I am satisfied that no reasonable scientific doubt remains as to the absence of adverse effects.

**Site integrity**

The proposed development would not affect the attainment of the conservation objectives of South Dublin Bay and River Tolka Estuary SPA, North Bull Island SPA, and North-west Irish Sea SPA. Adverse effects on site integrity can be excluded and no reasonable scientific doubt remains as to the absence of such effects.

**Appropriate Assessment (AA) Conclusion: Integrity Test**

In screening the need for AA, it was determined that the proposed development could result in significant effects on North Dublin Bay SAC, South Dublin Bay SAC, Wicklow Mountains SAC, South Dublin Bay and River Tolka Estuary SPA, North Bull Island SPA, and North-west Irish Sea SPA in view of the conservation objectives of those sites and that AA under the provisions of s177V of the Planning & Development Act, 2000 (as amended) was required.

Following an examination, analysis, and evaluation of the NIS, all associated material submitted with the application, and information publicly available from the NPWS, I consider that adverse effects on the site integrity of North Dublin Bay SAC, South Dublin Bay SAC, Wicklow Mountains SAC, South Dublin Bay and River Tolka Estuary SPA, North Bull Island SPA, and North-west Irish Sea SPA can be excluded in view of the conservation objectives of these sites and that no reasonable scientific doubt remains as to the absence of such effects.

My conclusion is based on the following:

- detailed assessment of construction and operational impacts,
- effectiveness of mitigation measures proposed including supervision and monitoring and integration into CEMP ensuring smooth transition of obligations to eventual contractor,
- application of planning conditions to ensure application of these measures, and,
- the proposed development will not affect the attainment of conservation objectives for North Dublin Bay SAC, South Dublin Bay SAC, Wicklow Mountains SAC, South Dublin Bay and River Tolka Estuary SPA, North Bull Island SPA, and North-west Irish Sea SPA.

## **Appendix 5 – Water Framework Directive (WFD)**

WFD Impact Assessment Stage 1: Screening			
Step 1: Nature of the Project, the Site and Locality			
An Coimisiún Pleanála Ref No.	ACP-323142-25	Address	Former Paper Mills site, Clonskeagh Road, Dublin 6
Description of project	LRD comprising 16 apartments, 439 PBSA bed spaces, renovation and extension of 14 houses, flood defence and alleviation works to the south of Farmer Brown's Public House, and amendment and grade control structures to the Smurfit Weir.		
Brief site description relevant to WFD screening	<p>The site is a vacant brownfield former industrial site in an inner suburban location. The majority habitat in the main body of the site is spoil and bare ground with areas of recolonising bare ground and scrub. The main development site area is relatively flat and is below the ground level of Clonskeagh Road. The River Dodder runs along the southern and eastern boundary in a northerly/easterly direction. There is a line of trees and vegetation along this boundary that it is proposed to retain.</p> <p>The proposed development includes flood defence and alleviation works west of Clonskeagh Bridge on the northern bank of the Dodder and in-stream works to Smurfit Weir to facilitate upstream access for aquatic species.</p>		
Proposed surface water details	Surface water discharge is to the Dodder via a new headwall following SuDS treatment on site.		
Proposed water supply source and available capacity	Water supply is from the public main. Uisce Éireann has not indicated any issue with available capacity.		
Proposed wastewater treatment system and available capacity	Foul water discharge is to a public combined sewer. Uisce Éireann has not indicated any issue with treatment capacity.		
Other issues	No		
Step 2: Identification of relevant water bodies and Step 3: S-P-R connection			

Identified water body	Distance	Water body name (code)	WFD status (2019-2024)	Risk of not achieving WFD status	Identified pressures on that water body	Pathway linkage to water feature
River waterbody (Dodder)	Adjacent to the site	Dodder_050 (IE_EA_09D010900)	Moderate	At risk	Urban wastewater (Combined SWO), Urban run-off, Unknown	Surface water discharge
Transitional waterbody (Liffey)	Approx. 3.7km downstream to the north	Liffey Estuary Lower (IE_EA_090_0300)	Moderate	At risk	Urban wastewater combined sewer overflows	Surface water from site via the Dodder
Groundwater waterbody	Underlying site	Dublin (IE_EA_G_008)	Good	Not at risk	None identified	Drainage to groundwater
Step 4: Detailed description of any component of the development or activity that may cause a risk of not achieving the WFD Objectives having regard to the S-P-R linkage.						
Construction phase						

No.	Component	Waterbody receptor (EPA code)	Pathway	Potential for impact / what is the possible impact	Screening stage mitigation measure	Residual risk (Y/N)	Determination to proceed to Stage 2.
1	Surface	Dodder_050 (IE_EA_09D010900) and Liffey Estuary Lower (IE_EA_090_0300)	Surface water runoff	Deterioration of surface water quality during construction, interference with morphology of riverbank, in-stream works to weir, flood risk in flood zone A/B	A number of documents submitted e.g. NIS, CEMP, Hydrological and Hydrogeological Risk Assessment Report (HHRAR), Preliminary Construction Method Statement for the Construction of the Upstream Flood Relief Works, and Fish Passage Design Report.	Proximity to watercourse and nature of the proposed works warrants additional consideration	Screened in



2	Ground	Dublin (IE_EA_G_008)	Pathway exists but poor drainage characteristics. Subsoils are characterised by the EPA as 'concreted or artificial surface'.	Deterioration in groundwater quality during construction	As above, the CEMP being most relevant to groundwater	No	Screened out
<b>Operation Phase</b>							
3	Surface	Dodder_050 (IE_EA_09D010900) and Liffey Estuary Lower (IE_EA_090_0300)	Surface water	Flooding, effect on the river's flow and sediment regime as a result of modifications to the weir, accidental spillages	SuDS, FRA, Preliminary Construction Method Statement for the Construction of the Upstream Flood Relief Works, and Fish Passage Design Report'	No	Screened out
4	Ground	Dublin (IE_EA_G_008)	Discharge to ground	Accidental spillages	SuDS	No	Screened out
<b>Decomissioning Phase</b>							
N/A							

Stage 2: Assessment					
Details of Mitigation Required to Comply with WFD Objectives					
Surface Water					
Development / activity	<u>Objective 1: Surface Water</u> Prevent deterioration of the status of all bodies of surface water	<u>Objective 2: Surface Water</u> Protect, enhance and restore all bodies of surface water with aim of achieving good status	<u>Objective 3: Surface Water</u> Protect and enhance all artificial and heavily modified bodies of water with aim of achieving good ecological potential and good surface water chemical status	<u>Objective 4: Surface Water</u> Progressively reduce pollution from priority substances and cease or phase out emission, discharges and losses of priority substances	Does this component comply with WFD Objectives 1, 2, 3 & 4? (if answer is no, a development cannot proceed without a derogation under art. 4.7)
	Describe mitigation required to meet objective 1:	Describe mitigation required to meet objective 2:	Describe mitigation required to meet objective 3:	Describe mitigation required to meet objective 4:	

General construction works	General construction stage environmental management and control measures are set out in chapter 6 of the CEMP	General construction stage environmental management and control measures are set out in chapter 6 of the CEMP	N/A	Surface water from the site currently drains directly to the Dodder. Surface water during construction will adhere to the CEMP and during operation would be subject of SuDS, attenuation, and controlled discharge	Yes
Works along natural riverbank	The EclA sets out mitigation measures in chapter 6. There will be no compound within the riparian zone. An ECoW will be present for works.	There will be no general public access to the riparian zone during operation. Habitat creation and management measures are set out in the Biodiversity Management and Enhancement Plan.	N/A	There will be no general public access to the riparian zone during operation.	Yes

Amendments to weir	This alteration would facilitate the upstream migration of indigenous aquatic species and age classes improving biodiversity within the river. Substantial mitigation measures are set out in sub-section 6.1.3 of the EclA and the HHRAR e.g. rocks sourced from the local geological strata, in-stream site preparation, riprap to prevent any bankside erosion, and presence of ECoW.	This alteration would facilitate the upstream migration of indigenous aquatic species and age classes improving biodiversity within the river. Substantial mitigation measures are set out in sub-section 6.1.3 of the EclA and the HHRAR e.g. rocks sourced from the local geological strata, in-stream site preparation, riprap to prevent any bankside erosion, and presence of ECoW.	The weir is one of a number of artificial modifications to the Dodder in the vicinity. Its alteration would facilitate the upstream migration of indigenous aquatic species and age classes.	The proposed development would amend part of an artificial structure from within the watercourse and improve fish passage and upstream biodiversity.	Yes
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Flood defence and alleviation works	The CEMP sets out a number of construction phase mitigation measures including specific mention to the flood relief works at Farmer Brown's under the sub-headings prevention of pollution/siltation of surface/groundwaters and prevention of cement related impacts, which is relevant given proximity of some works to the river.	The CEMP sets out a number of construction phase mitigation measures including specific mention to the flood relief works at Farmer Brown's under the sub-headings prevention of pollution/siltation of surface/groundwaters and prevention of cement related impacts, which is relevant given proximity of some works to the river.	N/A	N/A	Yes
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