



An
Coimisiún
Pleanála

Inspector's Report

ACP-323444-25

Development

Demolition of a dwelling, two sheds and the Irish Cone and Wafer Factory and construction of 65. no. apartments with all associated site works and services.

Location

Site north and south of and including the Camac River, that includes No. 6 Kilmainham Lane and adjacent lands and the former Irish Cone and Wafer factory, Kilmainham, Dublin 8.

Planning Authority

Dublin City Council South

Planning Authority Reg. Ref.

WEB2243/25

Applicant(s)

Halexmain Enterprises Limited.

Type of Application

Permission

Planning Authority Decision

Refuse

Type of Appeal

First Party

Appellant(s)

Halexmain Enterprises Limited.

Observer(s)

John Porter

Peter Keenahan

Date of Site Inspection

08 October 2025.

Inspector

Hugh O'Neill

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1 Site Location and Description

The 0.2462HA site is located immediately south of the Royal Hospital Kilmainham, approximately 3 kilometres West of Dublin city centre and is for the purpose of by the Dublin City Development Plan considered inner city.

The appeal site consists of two separate parcels of land separated by the River Camac also referred to as the Cammock which runs from west to east flowing into the river liffey.

1.1 Northern parcel:

The northern parcel fronts to the north onto Kilmainham Lane, an urban laneway on the southern boundary of the Royal Hospital, predominantly characterised by single and two storey houses in a tight urban grain. There are also a number of modern apartment developments along Kilmainham Lane. A two storey, above Kilmainham Lane, own door apartment development (St. John's Well) occupies the adjacent plot to the east. Directly opposite the site on Kilmainham Lane are single storey cottages and a 3 storey house behind which ground levels sharply rise, with the southern wall of the Royal Hospital above.

The northern parcel of the subject site is characterised and is dominated by longstanding unmaintained overgrown lands with a canopy of naturalised trees. The site falls sharply to the Camac River. The northern frontage is at or around the highest point on Kilmainham Lane.

The northern parcel of the subject site includes No 6 Kilmainham Lane, an occupied, detached 2 storey, 4 bay house with a flat roof. A building with a consistent footprint appears on the first and each subsequent edition of OS maps. The remainder of the site frontage is defined by a mix of deteriorating temporary hoarding and a roughcast rendered masonry wall.

The application survey notes the 3 storey opposite as highest existing building to the north of Kilmainham Lane at 25.67m AOD. It is notable that this building sits at or around the highest point on Kilmainham Lane and at its highest point is below the boundary wall of the Royal Hospital. Ground level on Kilmainham Lane at the subject site is recorded as 17.30m AOD, the water level in the Camac is recorded as 6.79m

AOD with 28m horizontal distance from Kilmainham lane to the river Camac at this point.

The prevailing character of the northern portion of the site insofar as it relates to density and height and perception thereof is one of low to medium density and height. Primarily dictated by the established terraced urban housing. There have been interventions in the form of new apartment developments along Kilmainham Lane with 2 storey above street St. Johns well to the immediate east of the site, 3 storey Camac View to 120m to the east, (downhill) from the subject site and 3 storey apartment developments on Rowerstown Lane and opposite the Garda station to the west (downhill).

1.2 Southern parcel

The southern parcel is accessed from and bound to the west by Shannon Terrace. Shannon terrace is a circa 60m long cul-de-sac defined by a vacant overgrown site to the east and redbrick 2 storey gable to the west at its entrance. The Terrace consists of 9 no. 2 Storey terraced dwellings on the west with on street parking in front. The terrace faces east towards the Irish cone and Wafer Factory and ancillary buildings. The factory is set back from the road edge which defines the boundary of the application site with the set back currently in use for perpendicular parking.

The metal sheet clad factory building has a ridge height of 9.38m with a gable end presented onto Shannon Terrace. An unoccupied/derelict 3 bay, 2 storey masonry built pebble dashed building occupies the site fronting onto the lane to the immediate south of the factory. This contiguous building is outside the application boundary but is accessed via a roller shuttered garage type door opening onto the application site.

Shannon Terrace is accessed from the north side of Old Kilmainham Road. The immediate area of Old Kilmainham is characterised by 2 storey redbrick houses with occasional commercial uses primarily opening directly onto the footpath. The long established housing and commercial uses in the area have access to only very limited on street parking to the south side of the old Kilmainham Road.

The southern parcel of the application site contains 2 structures described as a factory and a shed, neither of which was to be occupied at the time of my site visit. The southern parcel also contains areas of unmaintained naturalised vegetation.

The urban form in the wider vicinity of the southern portion of the site is dominated large plots interspersed with small developments of terraced housing as consequence of the milling heritage associated with the Camac River. As a result of this urban form its location the area is currently characterised by a mix of, dereliction, transitional low intensity yard type uses consistent with site assembly and recent apartment development. The prevailing density pattern of the area is one of transition from low to medium.

Existing levels on the southern site rise from the top of the southern bank wall at 7m to 8.5m AOD rising to 8.73m AOD at the southern site boundary, 35m from the river. This low gradient reflects the extent of the identified flood risk associated with this parcel.

The Dublin City Biodiversity Action Plan notes that the Camac river which runs through the centre of the site flowing from west to east supports White-clawed crayfish, Brown Trout, Atlantic Salmon, Lamprey species, and Eel.

Invasive species have been identified on the site with Japanese Knotweed and Hog weed reported.

Principal elements of note are the city centre location, restricted access, challenging gradients, prevailing 2 storey built character in the vicinity, and the water course running through the centre of the site.

2 Proposed Development and application

2.1 Development

Permission is sought for the demolition of a house and ancillary structures on Kilmainham Lane and for the demolition of the former Irish Cone and Wafer factory along with ancillary structures facing onto Shannon Terrace.

Two blocks of apartments connected by a proposed bridge over the Camac River are proposed.

A note on calculating Net and Gross density:

Dublin City Council provides no definition or methodology for calculation of Net density.

Appendix A of the Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities 2009 to which Dublin City Development Plan requires proposals to have regard, provides an interpretation of density as taking into account only those areas which will be developed for housing.

Appendix B of The Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities 2024 states that net site area should exclude *areas of land that cannot be developed due to environmental sensitivities, topographical constraints (i.e. steepness) and/or are subject to flooding*, (also references wayleaves or rights of way). Taking account of the characteristics of the site and the proposal this presents a challenge to the calculation of net density for the subject development. For the purpose of the following table of Key Development Statistics I have discounted the area of the river to determine a net site area, the applicant has included the river within the red line boundary and in the site area for the purpose of calculating density, plot ratio and site coverage.

Key Development Statistics as set out in the application are as follows with the addition of calculations derived from net site:

Site Area	0.2462HA (including river) River as drawn on the submitted site layout plan comprises c. 225sqm of the stated site area. Net site area excluding river c. 0.2237Ha
No. of apartment units	65
Density	264 uph Gross site area c. 290 uph Net site area excluding river
Plot Ratio	2.5 Gross site area c. 2.78 Net site area excluding river
Site Coverage	53.4% gross site area c. 58.7% Net site area excluding river
Height	North Block: 35 Apartments Total 7 storey 23.65m

	<p>Kilmainham Lane street level.5 Storey, 17.365m above street level.</p> <p>South Block: 30 Apartments</p> <p>7 Storey, 25.74m above Shannon terrace street level</p>
Public Open Space	<p>303sqm</p> <p>c 13.4% of gross site area</p> <p>c.14.75% of net site area excluding river</p>
Communal Open Space	<p>504.5sqm =c. 20% of Gross site area</p> <p>22.5% of Net site area excluding river.</p>
Car Parking	0
Bicycle Parking	<p>144</p> <p>Block A 82</p> <p>Block B 62</p>
1 Bed Apartments	32 49.2%
2 Bed Apartments	29 44.6%
3 Bed Apartments	4 6.2%

Following removal of all structures and vegetation a contiguous pile wall is proposed to facilitate excavation of the northern site. It is envisaged that c.8,000m³ of soil are to be excavated and removed off site, circa 1000 truckloads with a reduction in level of up to 7m at the deepest part. The extent of works to or in close proximity of the river banks construction methodology and proposed structures and finishes in these areas have not been clearly presented.

A 7 storey block of 35 apartments is proposed on the Northern parcel with primary access proposed from Kilmainham Lane, at second floor level. 5 storeys are proposed to face onto Kilmainham Lane at a total height circa 17m above street level. The highest part of the proposed northern block is c. 35m AOD. Communal

open space is proposed at third floor/level 5 (27.8m AOD) and forth floor/level 6 (31.1m AOD) . The level 5 area of communal open space coincides with a step back from the principle western elevational planes.

An external staircase is proposed to the western side of the northern block as a means of access connecting Shannon Terrace to Kilmainham Lane rising circa 7m in 4 flights above the proposed central area between the blocks.

A 7 storey block (over an undercroft sub storey for flood protection) of 30 no. apartments is proposed to the southern parcel facing onto and accessed from Shannon Terrace. The southern block has a total height of 25.77m with its highest point at c. 35m AOD.

A new pedestrian bridge is proposed spanning the Camac River connecting the 2 blocks. The podium ground level contains public and communal open spaces with external lifts, ramps and steps to accesses each of the spaces.

Lowest finish floor levels are proposed to be above the 1% AEP flood risk. Blue and green roofs, surface water attenuation at ground floor level and flood protection mitigation measures are proposed within the design.

References to commercial space in a number of engineering and environmental reports submitted as part of the application are taken to be typographical errors. No commercial development is indicated on any proposed drawings.

2.2 Documentation submitted with the application.

- Schedule of Units as prepared by CDP Architecture;
- Housing Quality Assessment as prepared by CDP Architecture;
- Design Statement as prepared by CDP Architecture;
- Architect Drawings Register;
- Part V Validation Letter;
- Part V proposal;
- Letter of Consent to Agent;
- Architects Drawings as prepared by CDP Architecture;

- Drainage and Water Services Report as prepared by OCSC Consulting Engineers
- Site-Specific Flood Risk Assessment Report as prepared by OCSC Consulting Engineers;
- Mobility Management Plan / Travel Plan as prepared by OCSC Consulting Engineers;
- Energy & Sustainability / Climate Action Report as prepared by OCSC Consulting Engineers;
- Resource and Waste Management Plan as prepared by OCSC Consulting Engineers;
- Appropriate Assessment as prepared by OCSC Consulting Engineers;
- Ecological Impact Assessment as prepared by OCSC Consulting Engineers;
- Bat Survey Report as prepared by OCSC Consulting Engineers;
- Environmental Impact Assessment Screening Report as prepared by OCSC Consulting Engineers;
- Operational Waste Management Planning as prepared by OCSC Consulting Engineers;
- Proposed Drainage Layout as prepared by OCSC Consulting Engineers;
- Proposed Watermain Layout as prepared by OCSC Consulting Engineers;
- Fire Safety & Access Report as prepared by ORS Fire Consultant;
- Landscape layouts as prepared by Landmark Design & Consultancy;
- Arboricultural Report as prepared by John Morris Arboricultural Consultancy;
- Tree Constraints Plan as prepared by John Morris Arboricultural Consultancy;
- Tree Impact & Protection Plan as prepared by John Morris Arboricultural Consultancy;
- Tree Schedule as prepared by John Morris Arboricultural Consultancy

No-record of pre-planning consultation is referenced in relation to the subject development.

3 Planning Authority Decision

3.1 Decision

Dublin City Council issued a notification, order dated 25/07/25 to refuse planning permission for two reasons as follows:

1. Having regard to the location of the subject site within Flood Zone A, as identified in the Dublin City Development Plan 2022-2028 Strategic Flood Risk Assessment (SFRA), and in the absence of the Camac River Flood Alleviation Scheme being completed and implemented, taking into consideration the proposal for residential development which is classified as Highly Vulnerable development under the DEHLG/OPW Guidelines on the Planning Process and Flood Risk Management, the proposed development fails to meet the applicable criteria for the Justification Test for Development Management as required by the DEHLG/OPW Guidelines and the Dublin City Development Plan 2022-2028.

The development would therefore be contrary to the policies set out in Dublin City Development Plan 2022-2028, specifically Policy SI14 (Strategic Flood Risk Assessment) and SI 15 (Site- Specific Flood Risk Assessment) which seek to ensure development complies fully with the recommendations of the SFRA and the DEHLG/OPW Guidelines and as such would be contrary to the proper planning and sustainable development of the area.

2. Having regard to the Z1 zoning objective, which aims to protect, provide, and enhance residential amenities, the proposed development, by reason of its scale, massing, height, design, and proportions, would negatively impact the residential amenity of neighbouring properties, resulting in overbearing, overlooking, and overshadowing impacts. The development would appear out of scale and character with the surrounding built environment, creating a visually incongruous presence on the streetscape. Furthermore, the proposal fails to provide an adequate standard of communal and public open space for future residents. As such, the development would be contrary to the proper planning and sustainable development of the area and would set an undesirable precedent for similar proposals.

3.2 Planning Authority Reports

3.2.1 Planning Reports

A planning report dated 24/07/25 concluded with a recommendation for refusal for reasons of flood risk, scale, massing, height, design, and that the proportions of the proposal would negatively impact on the amenity of existing and future residents as set out in the reasons above.

The planning report set out the physical and policy context of the proposal, internal reporting and third party submissions.

The assessment was structured around main issues which were determined to consist of:

- Principle of Proposed Development
- Density, Plot Ratio, Site Coverage and Height
- Layout, Design and Integration
- Residential & Visual Amenity
- Flooding and Drainage issues
- Archaeology issues
- Access, Parking and Services

The assessment concluded that the principle of residential development on the site would be acceptable subject to assessment of impacts.

The proposed height was determined by the PA to exceed the carrying capacity of the receiving environment.

A lack of integration of elements of the proposal within the site and with its wider context are highlighted as deficiencies. These include the relationship of the proposal to its context and the quality/usability of open spaces.

The absence of justification for demolition of the house fronting onto Kilmainham Lane was noted.

3.2.2 Other Technical Reports

- **Drainage Division**, Engineering Department report of 20/06/2025 recommended refusal noting the encroachment into the identified flood risk and potential for negative effects on:
 - Flood risk on the site and the wider area
 - The outcomes of Regional Camac Flood Alleviation Study
 - Hydromorphology of the Camac under the Water Framework Directive and the future potential to restore the river and attain a good status.

The report concludes that the proposal is contrary to the recommendations of the Justification Test for Development Plan carried out as part of the Strategic Flood Risk Assessment for the area.

- **Roads Streets & Traffic** Department Road Planning Division report recommends that extensive further information be sought which include the following points:
 - A car free scheme of this scale is not considered appropriate in this location and is not supported.
 - Significant concerns for future functionality, safety and impacts on Shannon Terrace and its residents.
 - Policy requires that appropriate provision for drop-off, servicing, accessible parking and visitor needs are demonstrated.
 - Long term and short term cycle parking should be separated.
 - Deficiencies in the layout and design of bike parking are noted and referred to as being of particular importance in the context of a proposed car free development.
 - A Traffic and Transport Assessment should be provided.
 - It is proposed that all servicing / refuse collection will take place from the public road on Old Kilmainham Road at the junction with Shannon Terrace. The road department report states that 'no servicing shall take place from this location'.
 - A revised waste management strategy is required which ensures that bin storage and collection does not interfere with pedestrian or vehicular movement along Shannon Terrace or Old Kilmainham Road.
 - The proposal lacks details regarding delivery logistics.
 - No auto tracking access demonstrated for emergency vehicles.
 - Concerns regarding feasibility of the proposed construction approach and potential impact on the local traffic network and parking facilities.
- **Archaeology** Section Report recommends further information be requested.

- The report notes that the site falls within the Zone of Archaeological Constraint for the Recorded Monument DU018-020 (HISTORIC CITY) and is subject to protection.
- Development plan policy and objectives are listed in the report including policy support for incorporation of no. 6 Kilmainham Lane into the proposal.

3.3 Prescribed Bodies

National Transport Agency submission 24 June 2025 notes the location relative to the Liffey Valley to City Centre Bus Connects Core Bus Corridor Scheme and requests in the event of a grant of permission that a condition be included which requires the developer to liaise with the NTA before the construction stage commences to coordinate any required construction traffic management.

3.4 Third Party Observations

The planning authority received a number of submissions on the application. The points raised in these submissions are generally reflected in the observations on the appeal.

4 Planning History

4.1 Subject site

ABP-309823-21 Demand for payment of Vacant Site Levy 6 Kilmainham Lane, Dublin 8. **Demand Confirmed**

6705/07 / PL 29S 231225— Planning permission was granted subject to conditions for a development of 43 no. units on the subject site plus the frontage onto Old Kilmainham road which does not form part of the current application site. Planning originally sought for demolition of the existing dwelling at no. 6 Kilmainham Lane; and the former Irish Cone and Wafer Industrial premises and the construction of 58 no. apartment units in two blocks seven storeys in height. A reduced number of units was granted by DCC and appealed to ABP. A revised scheme submitted by the applicant at appeal stage consisted of Block A 'primarily two-storey with a small pop-

up third storey' at the elevation facing Kilmainham Lane, and which provided for 25 apartments, and a six-storey Block B with 24 apartments; which was reduced by Condition 2 of the ABP permission which omitted the fourth and fifth floors of Block B. The life of the planning permission was extended until the 19 April 2019 by ref **6705/07/X1** and has now **lapsed**.

4.2 In the vicinity of the site

4207/23 immediately adjacent, to south of subject site at the corner of Old Kilmainham and Shannon Terrace, demolition of the existing two storey structure and construction of 4 No. new terraced, three storey dwellings with balconies and roof terraces. **Refused** for 2 reasons, over-bearing, overshadowing, over looking and flooding.

4005/19 18 Old Kilmainham, immediately adjacent on east of subject site. Demolition of existing two storey building, double storey offices and sheds, new part six part eight storey apartment building. **Refused** for 2 reasons design, scale, mass and flooding.

ABP-300972-18 3188/17 circa 18m west of the subject site, 23-25, Old Kilmainham Road. Demolition of buildings & construction of a 26 no. unit apartment development in two blocks over basement car park, 5 and 4 storeys in height respectively with landscaped courtyard and associated site works. **Granted**

3567/20 amendments to application no. 3188/17 ABP-300972-18 to provide overall 33 no. apartments in 2 no. 4 to 5 storey blocks revised to increase accommodation. **Refused** for 2 reasons, Flood risk, premature pending Camac flood alleviation study and traffic impacts bus connects arising from lack of provision for servicing and parking.

ACP-322966-25 WEB2109/24, site of 3188/17 ABP-300972-18 demolition and removal of two existing derelict dilapidated houses at 23 – 25 Old Kilmainham. **Refused by DCC**, for reasons of loss of architectural character with no justification. Refusal upheld by ACP.

ABP-306814-20 PA ref: 4623/19 C.65m west of subject site, 30 Old Kilmainham, Kearns Place demolition of single storey building construction of a 6 storey over

basement hotel. **Refused** permission due to flood risk pending the outcome of the Camac River Flood Alleviation Scheme

ABP-309795-21 4009/20 c 45m south of site opposite side of Old Kilmainham Road (72-74 Old Kilmainham Road) demolition of the existing two/ three storey buildings construction of a 7-storey, over-basement, 'build-to-rent'. Roof level was 35.5 AOD in application. **Granted with 2 storeys removed by condition.**

2725/21 c. 65m south of subject site Brookfield Heights (The Former Fodhla Printing Works site, Brookfield Road) part two to part six storey building, over lower ground/basement level, comprising 79 no. build-to-rent (BTR) apartments. **Granted**

ABP-318561-23 The former Fodhla Printing Works site, amend planning permission reg. ref. 2725/21 by the addition of a new 6th floor level, and extending the development to 9 storeys including lower ground/basement and roof access staircore. **Refused** for 3 reasons, overdevelopment, impact on existing and future residential amenities.

ABP-318195-23 The former Fodhla Printing Works site Permission to amend planning permission reg. ref. 2725/21 by change of use in the lower ground/basement level, to remove car park usage. **Refused** due to impact mobility strategy and suitability for zero parking not demonstrated.

3973/20 / ABP-309738-21 -c. 133m west of site 40 Old Kilmainham construction of a mixed-use development arranged in two blocks across 6-8 storeys **refused** for 2 reasons, premature pending the outcome of the Camac River Flood Alleviation Scheme, excessive scale overbearing impact injurious to existing residential amenity, unsympathetic disproportionate and visually obtrusive.

5 Policy Context

5.1 Dublin City Development Plan

The site is zoned Z1-Sustainable Residential Neighbourhoods. The land-use zoning objective of which is 'To protect, provide and improve residential amenities'.

'Residential' is listed as a permissible use within this land-use zoning. The northern part of the site is identified as a Conservation Area.

5.1.1 Chapter 3: Climate Action

Chapter 3 contains the Council's policies and objectives for addressing the challenges of climate change through mitigation and adaptation.

The stated central guiding principle of chapter 3 is to ensure that climate action forms an integral consideration in the development management process and to ensure that proposals for substantial demolition and reconstruction works can be justified having regard to the 'embodied carbon'. The importance of green infrastructure and nature based solutions is also emphasised.

The relevant policies and summaries thereof from this section include:

- CA2: prioritise effective mitigation and adaptation.
- CA6: retrofitting and reuse of existing buildings
- CA8: maximisation of daylight and natural ventilation.
- CA10: requirement for Climate Action Energy Statement.
- CA26: support, green and grey flood adaptation measures.
- CA27: address flood risk at strategic level through the process of Strategic Flood Risk Assessment.
- CA28 encourage the use natural flood risk mitigation or nature based solutions including integrated wetlands, green infrastructure, and Sustainable Drainage Systems (SuDS)

5.1.2 Chapter 4 Shape and Structure of the City

Chapter 4 aims to ensure that growth is directed to, and prioritised in, the right locations to enable continued targeted investment in infrastructure and services and the optimal use of public transport.

The plan aims to protect and enhance the character of the city, derived from both the natural and built environments. Opportunities for new development will be required to respect the character of the city by taking account of the intrinsic value of our built heritage, landscape and natural environment.

The importance of increased urban density in appropriate locations integrated with the existing built fabric of the city is emphasised. An increased focus on green infrastructure networks is also set out.

Section 4.5.4 states that policy and guidance in Appendix 3 and that regard must be had to the prevailing context within which the site is located as well as overshadowing and overlooking, particularly in the lower scaled suburban areas of the city. The plan states that proposals for increased height in these areas must demonstrate that they do not have an adverse impact on these sensitive environments and that they make a positive contribution to the historic context and reiterates the commitment to conservation areas in consideration of height.

In developing the inner suburbs and outer city, there will be an increased focus on the importance of the strategic green network and it is acknowledged that such features contribute to the built and natural landscape of the city and play an integral role in addressing the challenges of climate change.

The policies relevant to the subject development from chapter 4 are:

- SC2 protect heritage, grain, scale, natural assets and vitality of city streets, appropriate heights
- SC8 support intensification of infill where aligned with public transport corridors.
- SC11: Promotes Compact Growth to enhance the urban form and spatial structure, respect the established character, enhanced amenities for existing and future residents, good neighbourhoods, quality urban design and excellence in architecture.
- SC12: Promotes housing mix, creation of neighbourhoods with coherent streets and open spaces.
- SC13: Recognise and promote Green Infrastructure as an integral part of the form and structure of the city.
- SC14: Building Height Strategy is to ensure heights accord with the 2018 Building Height Guidelines and in particular SPPR 1 to 4

- SC16: Building Height Locations requires a recognition of prevailing character and recognition of need for height, whilst ensuring a balance is provided with reasonable protection of existing amenities and environmental sensitivities.
- SC17: Building Height shall protect and enhance the skyline and ensure a design led approach, a positive contribution to character, vibrant and equitable neighbourhoods that are walkable, compact, green, accessible, mixed and balanced and have regard to the performance-based criteria set out in Appendix 3, further reference is made to a requirement to demonstrate sensitivity to historic structures, civic spaces and established residential areas.
- SC19: High Quality Architecture to promote high-quality, sustainable and inclusive urban design and architecture befitting the city's environment and heritage.
- SC20: Urban Design to promote guidance principles set out in the Urban Design Manual and DMURS
- SC21: promotes and facilitates innovative Architectural Design which mitigates and is resilient to climate change impacts.

5.1.3 Chapter 5: Quality Housing and Sustainable Neighbourhoods

Chapter 5: Quality Housing and Sustainable Neighbourhoods, seeks homes in sustainable locations that meet the needs of communities and the changing dynamics of the city.

Successful apartment living requires that the scheme must be designed as an integral part of the neighbourhood and it is the policy of this development plan to have regard to the relevant guidelines for apartment development and sustainable communities including the DEHLG Guidelines on 'Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities' (2007) and 'Sustainable Urban Housing: Design Standards for New Apartments' (2020).

Relevant policies from this chapter include:

- QHSN2: have regard to the DEHLG Guidelines on ‘Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities’ (2007), ‘Sustainable Urban Housing: Design Standards for New Apartments’ (2020), ‘Sustainable Residential Development in Urban Areas’ and the accompanying ‘Urban Design Manual: A Best Practice Guide’ (2009), Housing Options for our Aging Population 2019, the Design Manual for Quality Housing (2022), the Design Manual for Urban Roads and Streets (DMURS) (2019), the Urban Development and Building Height Guidelines for Planning Authorities (2018) and the Affordable Housing Act 2021 including Part 2 Section 6 with regard to community land trusts and/or other appropriate mechanisms in the provision of dwellings.
- QHSN6: Urban Consolidation, promote and support residential consolidation
- QHSN8 support the refurbishment and retrofitting of existing buildings
- QHSN10: promote residential development at sustainable densities throughout the city in accordance with the core strategy, particularly on vacant and/or underutilised sites, having regard to the need for high standards of urban design and architecture and to successfully integrate with the character of the surrounding area
- QHSN36: Promote high quality apartments within sustainable neighbourhoods by achieving suitable levels of amenity within individual apartments, and within each apartment development
- QHSN38: Apartment mix, sizes and tenures, in accordance with the Housing Strategy and HNDA, with supporting community facilities and residential amenities

5.1.4 Chapter 8: Sustainable Movement and Transport

Chapter 8 seeks to promote ease of movement within and around the city and an increased shift towards sustainable modes of travel.

Relevant policies from this chapter include:

- SMT6: promoting and providing for active travel and public transport use
- SMT7: require submission of travel plans for new residential developments.

- SMT11: protect, improve and expand on the pedestrian network including people with mobility impairment and/or disabilities, older persons and people with children.
- SMT15: promote the use of the 'last-mile' delivery
- SMT18: strengthen permeability by promoting the development of a network of pedestrian routes including laneway connections
- SMT010: Permission for major development (>100 units for example) will only be granted by the City Council, once a full audit of the walking and cycling facilities in the environs of a development is undertaken.
- SMT27: To provide for sustainable levels of car parking and car storage in residential schemes in accordance with development plan car parking standards (Appendix 5) so as to promote city centre living and reduce the requirement for car parking. To encourage car clubs and mobility hubs.
- SMT33 design new streets and roads within urban areas in accordance with the principles, approaches and standards contained within the Design Manual for Urban Roads and Streets (DMURS)
- SMT34 ensure that streets and roads within the city are designed to balance the needs and protect the safety of all road users and promote place making

5.1.5 Chapter 9: Sustainable Environmental Infrastructure and Flood Risk

Chapter 9 sets out a River Corridor policy approach for the city's rivers and aims to address a broad range of supporting infrastructure and services including water, waste, energy, digital connectivity, and flood risk/surface water management.

Strategic issues identified in the chapter include:

- Enhancing the City's resilience to climatic risk and vulnerabilities through more nature-based and adaptive flood risk management, which is aligned with placemaking and delivers wider environmental benefits.
- Aligning the growth of development areas with strategic surface water management and encouraging the use of sustainable drainage systems and nature-based surface water management regimes.

- Ensuring the necessary management and protection of watercourses and waterbodies is fully integrated with climate action, land use planning and development management practices.

Having discussed the importance of WFD and RBMPs the City Development Plan states that in the absence of forthcoming S28 guidance, regard will be had to the government's best practice guidance document, Nature-based Solutions to the Management of Rainwater and Surface Water Runoff in Urban Areas (December 2021).

Specific reference is made to the Camac River catchment, and the opportunities for river corridor restoration being explored in the Flood Alleviation Scheme. In advance of national guidance on river corridor restoration, the plan states that progressive restoration within river corridors is to be achieved by managing the nature and extent of development adjoining the City's rivers by applying a recommended minimum setback distance from all rivers in line with Planning for Watercourses in the Urban Environment Guidance (2020) produced by Inland Fisheries Ireland and the River Hydromorphology Assessment Technique (RHAT) under the Water Framework Directive. Reference is made to the Camac and principles of river restoration are set out at figure 9-1 of the Development Plan.

Management of surface water at or near source within the development site, via nature-based drainage systems will be the priority, with flow to main surface infrastructure controlled in accordance with the guidance set out in Appendices 11, 12 and 13. The Council's Surface Water Management Guidance (Appendix 13) should be consulted for further information and the proposed strategy should be agreed with the Council's Drainage Division. It is also stated that any impact on biodiversity or landscape will be the subject of consultation with the Council's Parks, Biodiversity and Landscape Services Division.

Relevant policies and objectives include in summary :

- SI7: promote and maintain the achievement of at least good status in all water bodies
- SI8: enhancement of the physical condition of waterbodies

- SI11: To manage all development within and adjacent to the Camac River Corridor in a way that enhances the ecological functioning and water quality of the river and aligns with the principles for river restoration. All development shall provide for a minimum set-back distance of 10-25m from the top of the river bank depending on site characteristics. Large development sites in excess of 0.5ha should provide a minimum set-back of 25m from the top of the river bank where informed by a hydromorphological study.
- SIO5: To take into consideration the River Basin Management Plan and Programme of Measures when considering new development proposals.
- SIO7: To support the delivery of flagship river restoration projects where restoration measures can be comprehensively implemented, including the Camac River Corridor.
- SI13: To minimise flood risk in Dublin City
- SI14: To implement and comply fully with the recommendations of the Strategic Flood Risk Assessment prepared as part of the Dublin City Development Plan 2022-2028, including all measures to mitigate identified climate change and flood risks, including those recommended under Part 3 (Specific Flood Risk Assessment) of the Justification Tests, and to have regard to the Flood Risk Management Guidelines (2009), as revised by Circular PL 2/2014, when assessing planning applications and in the preparation of statutory and non-statutory plans.
- SI15: All development proposals shall carry out, to an appropriate level of detail, a Site-Specific Flood Risk Assessment (SSFRA) that shall demonstrate compliance with:
 - The Planning System and Flood Risk Management, Guidelines for Planning Authorities, Department of the Environment, Community and Local Government (2009), as revised by Circular PL 2/2014 and any future amendments, and the Strategic Flood Risk Assessment (SFRA) as prepared by this development plan.
 - The application of the sequential approach, with avoidance of highly and less vulnerable development in areas at risk of flooding as a priority and/ or the

provision of water compatible development only. Where the Justification Test for Plan Making and Development Management have been passed, the SSFRA will address all potential sources of flood risk and will consider residual risks including climate change and those associated with existing flood defences. The SSFRA will include site-specific mitigation measures, flood-resilient design and construction, and any necessary management measures (the SFRA and Appendix B of the above mentioned national guidelines refer). Attention shall be given in the site-specific flood risk assessment to building design and creating a successful interface with the public realm through good design that addresses flood concerns but also maintains appealing functional streetscapes. Allowances for climate change shall be included in the SSFRA.

- On lands where the Justification Test for Plan Making has been passed and where a small proportion of the land is at significant risk of flooding, the sequential approach to development will be applied, and development will be limited to Minor Development (Section 5.28 of the Planning System and Flood Risk Management Guidelines 2009) on the portion at significant risk of flooding. There will be a presumption against the granting of permission for highly or less vulnerable development which encroaches onto or results in the loss of the flood plain. Water compatible development only will be considered in such areas at risk of flooding which do not have existing development on them.
- SI18: ensure new development does not increase flood risk while ensuring that new flood alleviation infrastructure has due regard to nature conservation, natural assets, open space and amenity values, as well as potential climate change impacts.
- SI21: To minimise flood risk by promoting the use of natural or nature-based flood risk management measures as a priority, to reduce the potential impact of existing and predicted flooding risk and to deliver wider environmental and biodiversity benefits, and climate adaption.
- SI22: To require the use of Sustainable Drainage Systems (SuDS) in all new developments, where appropriate, as set out in the Greater Dublin Strategic

Drainage Study (Vol 2: New Development)/ Greater Dublin Regional Code of Practice for Drainage Works and having regard to the guidance set out in Nature-based Solutions to the Management of Rainwater and Surface Water Runoff in Urban Areas, Water Sensitive Urban Design Best Practice Interim Guidance Document (DHLGH, 2021). Sustainable Drainage Systems (SuDS) should incorporate nature-based solutions and be designed in accordance with the Dublin City Council Sustainable Drainage Design & Evaluation Guide (2021) which is summarised in Appendix 12. SuDS should protect and enhance water quality through treatment at source while enhancing biodiversity and amenity.

- SI23: roof areas in excess of 100 sq. metres to provide for a green blue roof
- SI25: require the preparation of a Surface Water Management Plan as part of all new developments.
- SI33: all potentially contaminated sites shall be remediated to internationally accepted standards prior to redevelopment.

A plan-making Justification Test has been carried out under the Strategic Flood Risk Assessment (SFRA) and forms Volume 7 of the DCC's Development Plan 2022-2028. This concludes that in the area of Lower Camac, (development location), new development in Flood Zone A should be avoided and only less vulnerable development is appropriate in previously developed parts of Flood Zone B. Appendix B of Volume 7 of the Development Plan, SFRA - Area Assessment and Justification Test Tables for Area: 17. Lower Camac: South Circular Road to Liffey Estuary and SDRA 7).

5.1.6 Chapter 10: Green Infrastructure and Recreation

Protecting and enhancing the quality of Dublin City's natural assets and ensuring green, sustainable and climate resilient development will be central to ensuring the liveability of the city and its attractiveness as a place to live, work and visit into the future.

The protection, creation and/or enhancement of riparian buffer zones will be sought to benefit rivers as will opportunities for river restoration.

Relevant policies and objectives in summary include:

GI14: maintain and strengthen the integrity of the city's ecological corridors and stepping stones which enable species to move through the city, by increasing their connectivity.... An Ecological Impact Assessment will be required for any proposed development likely to have a significant impact on habitats and species of interest on or adjacent an ecological corridor.

GI15 take full account of Inland Fisheries Ireland Guidelines 'Planning for Watercourses in the Urban Environment' 2020, when undertaking, approving or authorising development or works which may impact on rivers.

GI16: new developments (as appropriate) will be required to support local biodiversity and incorporate biodiversity improvements through urban greening and the use of nature-based infrastructural solutions that are of particular relevance and benefit in an urban context. Opportunities should be taken as part of new development to provide a net gain in biodiversity and provide links to the wider Green Infrastructure network.

GI17: new development on private and public lands should provide opportunities for restoration of degraded habitats and soils where feasible and provide for their long-term maintenance to limit degradation

GIO9: to implement the targets and actions set out in the Dublin City Invasive Alien Species Action Plan 2016 – 2020 (or as updated).

GIO13 protect and improve connectivity of habitats and to prevent habitat loss and fragmentation through urban land use change, development and management through the use of the Dublin City Habitat Map and Database (2020, and updates) to inform planning decisions

GI28 ensure that in new residential developments, public open space is provided which is sufficient in amenity, quantity and distribution to meet the requirements of the projected population, including play facilities for children and that it is accessible by safe secure walking and cycling routes

GI29: 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.

GI31: To support the improvement of the ecological status of all rivers / waterbodies within the administrative area of Dublin City Council

GI32: To develop...sustainable riverine access... rivers in a manner that ensures that any adverse environmental effects are avoided and ecological enhancements, where appropriate, are employed to ensure a net biodiversity gain. Where lands along the waterways are in private ownership, it shall be policy in any development proposal to secure public access along the waterway.

GI34: 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.

GI41: To protect existing trees as part of new development..... There will be a presumption in favour of retaining and safeguarding trees that make a valuable contribution to the environment.

GIO42: To protect trees, hedgerows or groups of trees which function as wildlife corridors or 'stepping stones' in accordance with Article 10 of the EU Habitats Directive.

5.1.7 Chapter 11 Built Heritage and Archaeology

Chapter 11 Built Heritage and Archaeology guides decision-making through policies and objectives and the implementation of national legislation to conserve, protect and enhance our built heritage and archaeology. Section 11.5.3 deals specifically with the red hatch conservation areas to which the northern parcel of the site is subject. Whilst these areas do not have a statutory basis in the same manner as

protected structures or ACAs, they are recognised as areas that have conservation merit and importance and warrant protection through zoning and policy application.

The special interest/value of Conservation Areas lies in the historic and architectural interest and the design and scale of these areas. Therefore, all of these areas require special care in terms of development proposals. The City Council will encourage development which enhances the setting and character of Conservation Areas.

As with Architectural Conservation Areas, there is a general presumption against development which would involve the loss of a building of conservation or historic merit within the Conservation Areas or that contributes to the overall setting, character and streetscape of the Conservation Area. Such proposals will require detailed justification from a viability, heritage, and sustainability perspective.

Relevant policies and objectives in summary include:

- BHA2 Development of Protected Structures

That development will conserve and enhance protected structures and their

(d) Ensure that any development, modification, alteration, or extension affecting a protected structure and/or its setting is sensitively sited and designed, and is appropriate in terms of the proposed scale, mass, height, density, layout and materials.

- BHA6 That there will be a presumption against the demolition or substantial loss of any building or other structure which appears on historic maps up to and including the Ordnance Survey of Dublin City, 1847. A conservation report shall be submitted with the application and there will be a presumption against the demolition or substantial loss of the building or structure, unless demonstrated in the submitted conservation report this it has little or no special interest or merit having regard to the provisions of the Architectural Heritage Protection Guidelines for Planning Authorities (2011).
- BHA9: To protect the special interest and character denoted by red line conservation hatching on the zoning maps. Development within or affecting a Conservation Area must contribute positively to its character and

distinctiveness and take opportunities to protect and enhance the character and appearance of the area and its setting, wherever possible.

Enhancement opportunities may include:

- 1 Replacement or improvement of any building, feature or element which detracts from the character of the area or its setting.
 - 2 Re-instatement of missing architectural detail or important features.
 - 3 Improvement of open spaces and the wider public realm and reinstatement of historic routes and characteristic plot patterns.
 - 4 Contemporary architecture of exceptional design quality, which is in harmony with the Conservation Area.
 - 5 The repair and retention of shop and pub fronts of architectural interest.
 - 6 Retention of buildings and features that contribute to the overall character and integrity of the Conservation Area.
 - 7 The return of buildings to residential use.
- BHA10: There is a presumption against the demolition or substantial loss of a structure that positively contributes to the character of a Conservation Area, except in exceptional circumstances where such loss would also contribute to a significant public benefit.
 - BHA11 (a): To retain, where appropriate, and encourage the rehabilitation and suitable adaptive reuse of existing older buildings/structures/features which make a positive contribution to the character and appearance of the area and streetscape, in preference to their demolition and redevelopment.

5.1.8 Chapter 13 Strategic Development Regeneration Areas

Chapter 13 addresses strategic development regeneration areas and seeks to set out overarching frameworks and guiding principles for the designated Strategic Development Regeneration Areas (SDRAs) to be read in conjunction with the zoning objectives and principles and other objectives and policies of the plan.

The subject site falls within SDRA 7.

Figure 13-10 includes a map objective indicating a potential permeability enhancement connecting the Old Kilmainham Road with Kilmainham Lane through the subject site which is also repeated in supporting text.

Figure 13-10 also identifies sites with potential for locally higher buildings. The subject site is not identified as such a location.

Other guiding principles listed for SDRA7 are the re-naturalisation of the Camac, the provision of visible, accessible public open space as part of development proposals and recognition of the historic character of the area.

Objective SDRAO1 sets out overarching principles. Those of particular relevance to the subject appeal include, *Architectural Design and Urban Design, Access and Permeability, Height, Urban Greening and Biodiversity, Surface Water Management, Flood Risk and River Restoration*

5.1.9 Chapter 15: Development Standards

Chapter 15: Development Standards for the most part contains a repetition of the Council's Development Management policies and criteria from elsewhere in the plan that relate to the development management process as an additional assessment tool, to further determine how a development contributes to the achievement of the core strategy and related policies and objectives.

Table 15-1 sets out thresholds for which various document types should be submitted. As a development of 65 residential units table 15-1 states the following should accompany the subject application:

Architectural Design Report, Housing Quality Assessment, Landscape Design Report, Planning Report, Daylight and Sunlight Assessment (See Appendix 16 of CDP), Community and Social Audit, Lifecycle Report, Operational Management Statement, Traffic and Transport Assessment, Mobility Management Plan/ Travel Plan, Service Delivery and Access Strategy, Engineering Services Report (Civil and Structural), Construction Management Plan, Construction Demolition Waste Management Plan, Climate Action and Energy Statement (including District Heating), Surface Water Management Plan – see Appendix 13, Site Specific Flood Risk Assessment, Ecological Impact Assessment, and Appropriate Assessment Screening and NIS.

This section of the plan could be described as a reiteration of best practice, a number of specific requirements relevant to the subject development are set out therein which include:

Section 15.4.5 Security and safety. Maximisation of passive surveillance avoiding creation of blank facades, dark or secluded areas or enclosed public areas. Elimination of leftover pockets of land with no clear purpose. Providing a clear distinction between private and communal or public open space, including robust boundary treatment. Providing clear and direct routes through the area for pedestrians and cyclists with safe edge treatment, maintaining clear sight lines at eye level and clear visibility of the route ahead.

15.5.2 infill development:

- To respect and complement the prevailing scale, mass and architectural design in the surrounding townscape.
- To demonstrate a positive response to the existing context, including characteristic building plot widths, architectural form and the materials and detailing of existing buildings, where these contribute positively to the character and appearance of the area.
- Within terraces or groups of buildings of unified design and significant quality, infill development will positively interpret the existing design and architectural features where these make a positive contribution to the area.

Table 15-2 sets out the Information Requirements for Design Statements requiring following measures:

- Increase habitat protection to support the wider GI network.
- Provide additional green space to meet deficiencies in connectivity of the GI network.
- Ensure retention of mature habitats and provide for long-term ecological succession.
- Ensure that proposed developments do not create negative impacts on the existing GI network.

Section 15.6.12 Public open space states that the level of daylight and sunlight received within public open space shall be in accordance with the BRE guidelines or any other supplementary guidance document – see Appendix 16.

Section 15.7.1 Re-use of Existing Buildings states that where demolition is proposed, the applicant must submit a demolition justification report to set out the rationale for the demolition having regard to the ‘embodied carbon’ of existing structures and demonstrate that all options other than demolition, such as refurbishment, extension or retrofitting are not possible; as well as the additional use of resources and energy arising from new construction relative to the reuse of existing structures.

Section 15.8.2 Community and Social Audit requires that all residential applications comprising of 50 or more units shall include a community and social audit and under section 15.8.3 a separate report is required identifying the demand for school places likely to be generated and the capacity of existing schools.

Section 15.8.6 public open space requires that playground facilities be provided as part of the subject development and sets out principles which shall be applied. These principles include, its location, use of natural elements, accessibility and passive surveillance.

Section 15.9 Apartment standards reiterates, that apartment units are to be of high quality, attractive and liveable as set by The Sustainable Urban Housing: Design Standards for New Apartments (December 2020) or any further amendment thereof.

Sections 15.9.1 Unit mix, 15.9.3 Dual aspect, 15.9.5 Lift Stair cores and entrance lobbies and 15.9.8 Communal Amenity space, state that as with many provisions of S.28 guidelines standards that flexibility is provided in the application of standards in the case of urban infill schemes on sites up to 0.25Ha (subject site is 0.2462Ha).

Section 15.9.7 Private Amenity Space and Section 15.9.11 Security state that ground floor level apartments should be provided with a privacy strip of approximately 1.5m in order to maintain adequate security and privacy within the unit.

Section 15.9.9 Roof Terraces states that roof terraces will not be permitted as the primary form of communal amenity space but may contribute to a combination of courtyard and or linear green space. The provision of roof terraces does not circumvent the need to provide an adequate accessible ground floor residential amenity that achieves adequate sunlight and daylight levels throughout the day unless exceptional site specific conditions prevail.

Section 15.9.13 states that **Refuse storage** should be accessible to each apartment stair/ lift core.

Section 15.9.14 All residential developments should include **a building lifecycle report** that sets out the long term management and maintenance strategy of a scheme.

Section 15.9.16 microclimatic impacts including daylight and sunlight, noise and wind assessment should accompany all apartment schemes. A daylight and sunlight assessment should be provided to assess the impact of the proposed development on the surrounding properties and amenity areas outside the site boundary and to assess the daylight and sunlight received within each individual unit and communal areas of a proposed scheme.

Section 15.15 Built heritage and archaeology. Where a site is located within a Zone of Archaeological Interest, an Archaeological Assessment as defined in National policy and guidelines shall be prepared in consultation with the City Archaeologist and provided as part of the planning application.

Buildings on the first edition OS that are not protected structures shall be recorded as part of the archaeological assessment that accompanies the planning application.

All planning applications for development in Conservation Areas (red hatch, Northern portion of subject site) shall:

- Respect the existing setting and character of the surrounding area.
- Be cognisant and/ or complementary to the existing scale, building height and massing of the surrounding context.
- Protect the amenities of the surrounding properties and spaces.

- Provide for an assessment of the visual impact of the development in the surrounding context.
- Ensure materials and finishes are in keeping with the existing built environment.

The re-use of buildings/structures of significance is a central element in the conservation of the built heritage of the city and important to the achievement of sustainability. The planning authority will actively seek the retention and re-use of buildings and other structures of architectural, historical, archaeological, artistic, cultural, scientific, technical, social and/or local interest or those that make a positive contribution to the character and identity of streetscapes and the sustainable development of the city.

Any development containing significant excavation including the construction of a basement or any development on brownfield lands should include a ground investigation report to be submitted with an application. This will determine the best practice design based on the soil composition. Where lands are considered unstable or infilled, a strategy for the support and or removal of underground lands shall be provided as part of a planning application.

5.2 Dublin City Development Plan Appendices

5.2.1 Appendix 3 Achieving Sustainable Compact Growth

Appendix 3 sets out guidance to ensure the highest standard of design and the protection of existing amenities and the natural and historical assets of the city.

Height:

The appendix sets the context and states that the main determining factor in considering appropriate heights is the need to create exemplar urban development with attractive streets, spaces and public areas that integrate successfully with the surrounding area.

In consideration of key locations for increased height the appendix promotes a 6-storey default position, but caveats that with a proviso that separation and transition must be provided to protect existing amenities.

Section 6 of Appendix 3 provides guidelines for Higher Buildings in Areas of Historic Sensitivity. The requirement for identification and siting of areas suitable for increased density and height need to be considered the sensitivity of the receiving environment throughout the planning hierarchy. It then states that developments of significant height and scale are generally not considered appropriate in historic settings including conservation areas. A caveat is provided for consideration of tall buildings in Architectural Conservation Areas (ACA), and discussion is provided regarding the achievement of a balance in consideration of impacts on Protected Structures it is notable that this caveat or balanced approach does not extend to the (red hatch) Conservation areas. The northern parcel, fronting onto Kilmainham lane falls within a conservation area designated around Kilmainham Hospital which is not an ACA.

Density:

Section 3.2 of Appendix 3 of the City Development Plan specifically addresses density. The appendix states that sustainable densities in accordance with the standards set out in the Guidelines on Sustainable Residential Development in Urban Areas 2009 will be supported with a focus on the qualitative criteria.

Table 1 sets out density ranges which apply as general rule in different location types. The subject site is located in the City Centre to which a net density range of 100 – 250 units per hectare (uph) applies. There is a general presumption against schemes in excess of 300 uph. Schemes in excess of this density can only be considered in exceptional circumstances and where a compelling architectural and urban design rationale has been presented.

In the event of an application with a proposed density which exceeds the prevailing context the performance criteria in Table 3 shall apply.

Plot ratio and site coverage:

Indicative plot ratio and site coverage for different areas of the city are set out in table 2. It should be noted that area descriptions are not consistent with those described in Table 1. The subject site and the 2 parcels separately could fall into more than one of the area types presented. The site in its totality falls with the definition of Central Area, and Regeneration Area. The Northern parcel falls into a conservation area. Text immediately following the table states that higher plot ratio

and site coverage may be permitted in certain circumstances for which examples are given.

Area	Indicative Plot Ratio	Indicative Site Coverage
Central Area	2.5-3.0	60-90%
Regeneration Area	1.5-3.0	50-60%
Conservation Area	1.5-2.0	45-50%

At section 4.1 appendix 3 states that the general principle is to support increased height and higher density in locations including the city centre where the proposal is located and in bold text that, **All proposals with significant increased height and density over the existing prevailing context must demonstrate full compliance with the performance criteria set out in Table 3.**

Key Criteria with which all proposals for increased scale and height must demonstrate are set out. These key criteria differ from the performance criteria in table 3 with which full compliance should be demonstrated in that they appear to sit at a more aspirational/strategic level in the criteria hierarchy. These criteria are set out in full in section 8.1.5 of this report where the assessment of compliance is set out.

Provisions of Chapter 13 in consideration of SDRA's are repeated in appendix 3.

The introduction to table 3 in appendix 3 sets the standard for the assessment by stating that, in proposing urban scale and building height, the highest standard of urban design, architectural quality and placemaking should be achieved.

Table 3 is reproduced in full with the addition of column for the purpose of assessment in section 8.1.5 of this report.

5.2.2 Appendix 5 Transport and Mobility: Technical Requirements

This appendix states that all developments, shall demonstrate safe vehicular access and egress arrangements including private car, service, delivery and vehicles, and emergency vehicles and that where possible, service areas shall be provided within the curtilage of the site.

Appendix 5 states that where a zero or reduced quantum of car parking is proposed for a residential development, a proactive mobility management strategy is essential at the early design stages to identify measures that will promote the use of sustainable modes within the development and ensure any associated infrastructure can be incorporated into the design. A Residential Travel Plan is also stated as a requirement to support the zero/reduced provision of car parking to serve a development.

The appendix states that details of access for service vehicles shall be considered at an early stage in the design process. Access for emergency vehicles, refuse collections and general servicing needs (i.e. domestic/household deliveries) shall be adequately demonstrated. Identifying the location of drop off/pick up areas for deliveries, in particular for car free developments which may be reliant on third party services to meet their household requirements, shall also be considered early in the design process.

For larger developments (residential and non-residential), a Delivery and Service Management Plan shall contain, but is not limited to, the following information:

- Details how the proposed development will be accessed and served by deliveries, including refuse vehicles and emergency vehicles;
- Confirm the number, type and frequency of service vehicles envisaged for the development and detail the locations from which servicing will occur and how it will be managed;
- Swept-path analysis demonstrating the safe manoeuvrability of all vehicles servicing the site.

Bicycle parking:

The appendix states that all new developments are required to fully integrate cycle facilities into the design and operation of the schemes, in accordance with Table 1 unless otherwise agreed with the planning authority. Having regard to the Sustainable Urban Development: Guidelines for New Apartments (2020), cycle parking for residential apartment units shall be provided at a rate of 1 secure cycle parking space per residential bedroom and 1 visitor cycle parking space for every two units and goes to state that a relaxation may be justified. Table 1 in Appendix 5

is consistent with 2020 guidelines but includes an additional provision for e-bikes/cargo bikes/bike trailers/adapted bikes.

Car parking:

Table 2 specifies 0.5 car parking spaces per dwelling to be provided for residents in Zone 1, which is stated to be generally regarded as maximum provision.

The appendix goes on to state that a relaxation of maximum car parking standards will be considered in Zone 1 and Zone 2 for any site located within a highly accessible location. Applicants must set out a clear case satisfactorily demonstrating a reduction of parking need for the development based on the following criteria:

- Locational suitability and advantages of the site.
- Proximity to High Frequency Public Transport services (10 minutes' walk).
- Walking and cycling accessibility/permeability and any improvement to same.
- The range of services and sources of employment available within walking distance of the development.
- Availability of shared mobility.
- Impact on the amenities of surrounding properties or areas including overspill parking.
- Impact on traffic safety including obstruction of other road users.
- Robustness of Mobility Management Plan to support the development.

The appendix states that all roads and footpaths within developments shall be constructed to Taking-in-Charge standards. Dublin City Council sets out construction technical standards and specifications in Construction Standards for Road and Street Works in Dublin City Council (2020) and any subsequent review. Planning applications comprising of areas to be taken in charge shall be accompanied by a taken in charge site layout plan at a scale of 1:500 which indicates the area of the site sought to be taken in charge. The details and specification of the road and footpath layout of these areas should be set out as part of the planning application.

Appendix 5 aspires to transport related aspects of development to form the basis of discussion at pre-planning stage.

5.2.3 Appendix 16: Sunlight and Daylight

Appendix 16 seeks to ensure a consistent approach to completing daylight and sunlight assessments. The guide 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.

Section 5 sets out the expected methodology and metrics for presentation in daylight and sunlight reports to be submitted with planning applications. The appendix notes that both BS 8206-2 and BS EN 17037 present minimum values for residential developments, rather than best practice values. A general presumption is stated against schemes where units fall below these minimum standards, and it is the expectation of the planning authority that a significant proportion of units should exceed the minimum standard to ensure high quality sustainable developments.

Where minimum criteria cannot be achieved, the plan states that the applicant should very clearly identify this and put forward a clear and robust rationale for compensatory measures applied to mitigate any shortfall in the minimum standards. From here, the planning authority will apply an exercise in discretion and balance that considers the wider impact of the development beyond matters relating to daylight and sunlight.

5.3 National and Regional Policy

5.3.1 National Planning Framework first revision 2025

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

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

National Policy Objective 11: The consideration of individual development proposals on zoned and serviced development land subject of consenting processes under the

Planning and Development Act shall have regard to a broader set of considerations beyond the targets including, in particular, the receiving capacity of the environment.

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

The Urban Development and Building Height Guidelines issued in 2018 and the Sustainable Residential Development and Compact Settlements Guidelines issued in 2024 under Section 28 of the Planning and Development Act (as amended), provide detailed guidance and standards in support of NPO22.

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

National Policy Objective 43: Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.

National Policy Objective 45: Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration, increased building height and more compact forms of development.

National Policy Objective 67: Support the circular and bio economy including in particular through greater efficiency in land and materials management, promoting the sustainable re-use and refurbishment of existing buildings and structures, while conserving cultural and natural heritage, the greater use of renewable resources and by reducing the rate of land use change from urban sprawl and new development.

National Policy Objective 77: Enhance water quality and resource management by • Ensuring that River Basin Management Plan objectives are fully considered throughout the physical planning process. • Integrating sustainable water management solutions, such as Sustainable Urban Drainage (SUDS), non-porous surfacing and green roofs, and nature based solutions, to create safe places.

National Policy Objective 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.

National Policy Objective 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.

National Policy Objective 86 In line with the objectives of the National Biodiversity Action Plan, planning authorities should seek to address no net loss of biodiversity within their plan making functions.

National Policy Objective 90: Enhance, integrate and protect the special physical, environmental, economic and cultural value of built heritage assets, including streetscapes, vernacular dwellings and other historic buildings and monuments, through appropriate and sensitive investment and conservation.

5.3.2 Regional Spatial and Economic Strategy (RSES) for the Eastern and Midlands Regional Assembly (EMRA) (2019-2031).

Regional Policy Objective 3.3: Local authorities shall, in their core strategies, identify regeneration areas within existing urban settlements and set out specific objectives relating to the delivery of development on urban infill and brownfield regeneration sites in line with the Guiding Principles set out in the RSES and to provide for increased densities as set out in the 'Sustainable Residential Development in Urban Areas', 'Sustainable Urban Housing; Design Standards for new Apartments Guidelines' and the 'Urban Development and Building Heights Guidelines for Planning Authorities'

Regional Policy Objective 3.7: Local authorities shall have regard to environmental and sustainability considerations for meeting sustainable development targets and climate action commitments, in accordance with the National Adaptation Framework. In order to recognise the potential for impacts on the environment, local authorities

shall address the proper site/route selection of any new development and examine environmental constraints including but not limited to biodiversity, flooding, landscape, cultural heritage, material assets, including the capacity of services to serve any new development.

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

Regional Policy Objective 5.3: Future development in the Dublin Metropolitan Area shall be planned and designed in a manner that facilitates sustainable travel patterns, with a particular focus on increasing the share of active modes (walking and cycling) and public transport use and creating a safe attractive street environment for pedestrians and cyclists.

Regional Policy Objective 5.4: Future development of strategic residential development areas within the Dublin Metropolitan area shall provide for higher densities and qualitative standards as set out in the 'Sustainable Residential Development in Urban Areas', 'Sustainable Urban Housing: Design Standards for New Apartments' Guidelines and 'Urban Development and Building Heights Guidelines for Planning Authorities'.

Regional Policy Objective 5.5: Future residential development supporting the right housing and tenure mix within the Dublin Metropolitan Area shall follow a clear sequential approach, with a primary focus on the consolidation of Dublin and suburbs, and the development of Key Metropolitan Towns, as set out in the Metropolitan Area Strategic Plan (MASP) and in line with the overall Settlement Strategy for the RSES. Identification of suitable residential development sites shall be supported by a quality site selection process that addresses environmental concerns.

Regional Policy Objective 7.12: Future statutory land use plans shall include Strategic Flood Risk Assessment (SFRA) and seek to avoid inappropriate land use zonings and development in areas at risk of flooding and to integrate sustainable water management solutions (such as SuDS, nonporous surfacing and green roofs)

to create safe places in accordance with the Planning System and Flood Risk Assessment Guidelines for Local Authorities.

Regional Policy Objective 7.15: Local authorities shall take opportunities to enhance biodiversity and amenities and to ensure the protection of environmentally sensitive sites and habitats, including where flood risk management measures are planned.

Regional Policy Objective 7.26 Support the development of guidance for assessment of proposed land zonings in order to achieve appropriate riparian setback distances that support the attainment of high ecological status for waterbodies, the conservation of biodiversity and good ecosystem health, and buffer zones from flood plains.

5.4 Section 28 Guidelines

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

These Guidelines set out national planning policy and guidance in relation to the creation of settlements that are compact, attractive, liveable and well designed. There is a focus on the renewal of settlements and on the interaction between residential density, housing standards and placemaking to support the sustainable and compact growth of settlements.

The guidelines set key priorities for city and metropolitan growth in order of priority, the top 2 priorities are:

- (a) strengthen city, town and village centres,
- (b) protect, restore and enhance historic fabric, character, amenity, natural heritage, biodiversity and environmental quality,

In the consideration of density Section 3.3.6 states that in the case of very small infill sites that are not of sufficient scale to define their own character and density, the need to respond to the scale and form of surrounding development, to protect the amenities of surrounding properties and to protect biodiversity may take precedence over the densities set out in this Chapter.

SPPR 1 - Separation Distances. It is a specific planning policy requirement of these Guidelines that statutory development plans shall not include an objective in respect of minimum separation distances that exceed 16 metres between opposing windows serving habitable rooms at the rear or side of houses, duplex units or apartment units above ground floor level. When considering a planning application for residential development, a separation distance of at least 16 metres between opposing windows serving habitable rooms at the rear or side of houses, duplex units and apartment units, above ground floor level shall be maintained. Separation distances below 16 metres may be considered acceptable in circumstances where there are no opposing windows serving habitable rooms and where suitable privacy measures have been designed into the scheme to prevent undue overlooking of habitable rooms and private amenity spaces.

There shall be no specified minimum separation distance at ground level or to the front of houses, duplex units and apartment units in statutory development plans and planning applications shall be determined on a case-by-case basis to prevent undue loss of privacy.

SPPR 2 For urban infill schemes on smaller sites (e.g. sites of up to 0.25ha) the private open space standard may be relaxed in part or whole, on a case-by-case basis, subject to overall design quality and proximity to public open space. In all cases, the obligation will be on the project proposer to demonstrate to the satisfaction of the planning authority or An Bord Pleanála that residents will enjoy a high standard of amenity.

Open spaces should integrate and protect natural features of significance and green and blue infrastructure corridors within the site and should support the conservation, restoration and enhancement of biodiversity. The public open spaces should also form an integral part of the design and layout of a development and provide a connected hierarchy of spaces, with suitable landscape features, including seating and provision for children's play.

SPPR 3 Car Parking It is a specific planning policy requirement of these Guidelines that: In city centres and urban neighbourhoods of the five cities, car-parking provision should be minimised, substantially reduced or wholly eliminated. The maximum rate of car parking provision for residential development at these locations,

where such provision is justified to the satisfaction of the planning authority, shall be 1 no. space per dwelling.

SPPR 4 - Cycle Parking and Storage all new housing schemes include safe and secure cycle storage facilities to meet the needs of residents and visitors. The following requirements for cycle parking and storage are recommended: (i) Quantity – in the case of residential units that do not have ground level open space or have smaller terraces, a general minimum standard of 1 cycle storage space per bedroom should be applied. Visitor cycle parking should also be provided. Any deviation from these standards shall be at the discretion of the planning authority and shall be justified with respect to factors such as location, quality of facilities proposed, flexibility for future enhancement/ enlargement, etc. It will be important to make provision for a mix of bicycle parking types including larger/heavier cargo and electric bikes and for individual lockers. (ii) Design – cycle storage facilities should be provided in a dedicated facility of permanent construction, within the building footprint or, where not feasible, within an adjacent or adjoining purpose-built structure of permanent construction. Cycle parking areas shall be designed so that cyclists feel safe. It is best practice that either secure cycle cage/compound or preferably locker facilities are provided.

Section 5.3.7 states that, in drawing conclusions in relation to daylight performance, planning authorities must weigh up the overall quality of the design and layout of the scheme and the measures proposed to maximise daylight provision, against the location of the site and the general presumption in favour of increased scales of urban residential development.

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

These Guidelines seek to assist in the planning process striking a careful balance between on the one hand enabling long-term and strategic development of relevant areas, while ensuring the highest standards of urban design, architectural quality and place-making outcomes on the other.

Development Management Criteria

In making a planning application, the applicant shall demonstrate to the satisfaction of the Planning Authority/ An Bord Pleanála, that the proposed development satisfies criteria defined at city, district and building /site scales including consideration of:

- Development proposals incorporating increased building height, including proposals within architecturally sensitive areas, should successfully integrate into/ enhance the character and public realm of the area, having regard to topography, its cultural context, setting of key landmarks, protection of key views. Such development proposals shall undertake a landscape and visual assessment, by a suitably qualified practitioner such as a chartered landscape architect.
- The proposal responds to its overall natural and built environment and makes a positive contribution to the urban neighbourhood and streetscape.
- The proposal is not monolithic and avoids long, uninterrupted walls of building in the form of slab blocks with materials / building fabric well considered.
- The proposal enhances the urban design context for public spaces and key thoroughfares and 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 while being in line with the requirements of “The Planning System and Flood Risk Management – Guidelines for Planning Authorities” (2009).
- The proposal makes a positive contribution to the improvement of legibility through the site or wider urban area within which the development is situated and integrates in a cohesive manner.
- positive contribution to place-making, incorporating new streets and public spaces
- The form, massing and height of proposed developments should be carefully modulated so as to maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light.
- Appropriate and reasonable regard should be taken of quantitative performance approaches to daylight provision outlined in guides like the Building Research Establishment’s ‘Site Layout Planning for Daylight and

Sunlight' (2nd edition) or BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'.

- Where a proposal may not be able to fully meet all the requirements of the daylight provisions above, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, in respect of which the planning authority or An Bord Pleanála should apply their discretion, having regard to local factors including specific site constraints and the balancing of that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and or an effective urban design and streetscape solution.
- In development locations in proximity to sensitive bird and / or bat areas, proposed developments need to consider the potential interaction of the building location, building materials and artificial lighting to impact flight lines and / or collision.
- An urban design statement including, as appropriate, impact on the historic built environment

SPPR 3 It is a specific planning policy requirement that where;

1. an applicant for planning permission sets out how a development proposal complies with the criteria above; and
2. the assessment of the planning authority concurs, taking account of the wider strategic and national policy parameters set out in the National Planning Framework and these guidelines;

then the planning authority may approve such development, even where specific objectives of the relevant development plan or local area plan may indicate otherwise.

5.4.3 Sustainable Urban Housing: Design Standards for New Apartments 2025

The application was made to Dublin City council in May of 2025, predating the July 2025 Planning Design Standards for Apartments and for that reason the 2023 guidelines are the applicable S 28 Guideline.

5.4.4 Sustainable Urban Housing: Design Standards for new Apartments Guidelines for Planning Authorities (December 2022/July 2023)

Guidance on consideration of suitability of locations, building design and apartment design standards are included including in SPPRs. Where SPPRs are stated in the Guidelines, they take precedence over any conflicting, policies and objectives of development plans.

SPPR 1 Housing developments may include up to 50% one-bedroom or studio type units (with no more than 20-25% of the total proposed development as studios) and there shall be no minimum requirement for apartments with three or more bedrooms. Statutory development plans may specify a mix for apartment and other housing developments, but only further to an evidence-based Housing Need and Demand Assessment (HNDA), that has been agreed on an area, county, city or metropolitan area basis and incorporated into the relevant development plan(s).

SPPR 3 Minimum Apartment Floor Areas:

- Studio apartment (1 person) 37 sq.m
- 1-bedroom apartment (2 persons) 45 sq.m
- 2-bedroom apartment (4 persons) 73 sq.m
- 3-bedroom apartment (5 persons) 90 sq.m

It is a requirement that the majority of all apartments in any proposed scheme of 10 or more apartments exceed the minimum floor area standard for any combination of the relevant 1, 2 or 3 bedroom unit types, by a minimum of 10%.

Living spaces in apartments should provide for direct sunlight for some part of the day.

SPPR 4 On sites of up to 0.25ha, planning authorities may consider dual aspect unit provision at a level lower than the 33% minimum on a case-by-case basis, but subject to the achievement of overall high design quality in other aspects.

SPPR 5 Prescribes ceiling height requirements. On sites of up to 0.25ha, planning authorities may exercise discretion on a case-by-case basis, subject to overall design quality.

SPPR 6 limits number of apartments per floor per lift and stair cores. However on urban infill schemes on sites of up to 0.25ha, subject to overall design quality and compliance with building regulations the limit can be relaxed.

In Central and/or Accessible Urban Locations Car parking should be minimised or wholly eliminated. However it is necessary in these cases to ensure, where possible, the provision of an appropriate number of drop off, service, visitor parking spaces and parking for the mobility impaired, on sites of up to 0.25ha , car parking provision may be relaxed in part or whole, on a case-by-case basis, subject to overall design quality and location.

Section 6 addresses the development management process for Apartments and as set out in the Building height guidelines requires that where there are challenges to achievement of requirements for daylight that this should be clearly identified by the applicant and a rationale for alternative provision should be set out providing the planning authority the opportunity to exercise informed consent on a balance of factors.

5.4.5 NPF Implementation: Housing Growth Requirements July 2025

The Guidelines interpret the national housing growth requirements identified in the Revised National Planning Framework for implementation through development plans. They provide the basis for a consistent approach to be taken by planning authorities in incorporating national and regionally-based population and housing projections of the Revised NPF into the statutory plans.

These guidelines are referenced in the grounds of appeal. However, it is clearly stated within the guidelines that they may not be relied on for the purposes of any consenting or permitting process and the purpose of the Guidelines is to inform a plan review or variation processes.

5.4.6 Planning System and Flood Risk Management Guidelines for Planning Authorities (2009) and Circular PL 2/2014

These guidelines set out comprehensive mechanisms for the incorporation of flood risk identification, assessment and management into the planning process.

By way of clarification the 2014 circular states that in the event of lands subject to flood risk being zoned for vulnerable uses the development plan must specify the nature and design of structural or non-structural flood risk management measures required prior to future development.

5.4.7 Architectural Heritage Protection Guidelines for Planning Authorities

In addition to providing guidance on curtilage and setting of protected structure structures and general advice in relation to consideration of architectural character Appendix B sets out information for the compilation of Architectural Heritage Impact Assessment reports.

5.5 National Biodiversity Plan 2023-2030

The National Biodiversity Plan contains 194 actions split into 5 themes.

Understanding objective 3 states that Ireland's planning system has an important role in safeguarding biodiversity by ensuring that new development is sustainable and does not have a negative impact on the environment. There are opportunities to deliver for biodiversity in the assessment of new planning applications, as well as the application of best-practice principles for urban design and landscape management, such as green infrastructure and nature-based solutions. Action 3A3 states that by the end of 2027, the biocultural value of green and blue urban environments (GBUE) in all local authority areas is enhanced. Target 12 seeks to Significantly increase the area and quality, and connectivity of, access to, and benefits from green and blue spaces in urban and densely populated areas sustainably, by mainstreaming the conservation and sustainable use of biodiversity, and ensure biodiversity-inclusive urban planning, enhancing native biodiversity, ecological connectivity and integrity, and improving human health and well-being and connection to nature, and contributing to inclusive and sustainable urbanization and to the provision of ecosystem functions and services.

5.6 Natural Heritage Designations

The site has a hydrological connection to 000206 SAC North Dublin Bay SAC, 000210 SAC South Dublin Bay SAC, 004006 SPA North Bull Island SPA, 004024

SPA South Dublin Bay and River Tolka Estuary SPA, 004236 SPA North-west Irish Sea SPA, 000199 SAC Baldoyle Bay SAC, 004016 SPA Baldoyle Bay SPA, 000202 SAC Howth Head SAC or 003000 SAC Rockabill to Dalkey Island SAC. The Dublin City Biodiversity Action Plan notes that the Camac river supports White-clawed crayfish, Brown Trout, Atlantic Salmon, Lamprey species, and Eel.

6 EIA Screening

See full screening in Appendix 1 of this report which concludes that having regard to:

1. the criteria set out in Schedule 7, in particular
 - (a) the limited nature and scale of the proposed housing development, in an urban area with established residential uses served by public infrastructure
 - (b) the absence of any significant environmental sensitivity in the vicinity
 - (c) the location of the development outside of any sensitive location specified in article 109(4)(a) of the Planning and Development Regulations 2001 (as amended)
2. the results of other relevant assessments of the effects on the environment submitted by the applicant including AA screening *under the Habitats Directive* and an ecological impact assessment, bat impact assessment and arboricultural assessment.
3. the features and measures proposed by applicant envisaged to avoid or prevent what might otherwise have been significant effects on the environment, and in particular the proposal to monitor for archaeological features during excavations and operation of best practice surface water controls.

7 The Appeal

7.1 Grounds of Appeal

The first party makes the following points in their appeal against the decision to refuse permission for the proposed development.

Principle and procedural:

- The proposal complies with the National Planning Framework (First Revision — April 2025), Sustainable Residential Development and Compact Settlement

Guidelines (2024), the Sustainable Urban Housing: Design Standards for New Apartments (2023) and the Urban Development and Building Height Guidelines for Planning Authorities (2018).

- The applicant was denied an opportunity to submit further information including regarding concerns about daylight/sunlight.

Design including amenity and Height:

- Proposed height complies with Development plan.
- Increased density is required by policy, height is required to achieve this.
- The planning report ignored the careful design evolution of the proposal.
- No justification for seeking lower density.
- No statutory protections and no constraint to building height.
- Proposal fully compliant with Development plan objective SDRA01.
- By use of stepped down appearance, improved urban grain and use of materials like brick and stone the proposal would enhance the visual amenity and residential character of the area.
- The precedent of ABP 309795-21 on the old Kilmainham Road is referenced as a grant of a 7 storey structure. (Note: this was reduced by ABP by condition to 5 storeys).
- The proposal is compliant with SPPR3 of the Building Height Guidelines 2018.
- The existence of low-rise dwellings on Kilmainham Lane should not preclude the delivery of the correct scale of development.
- The proposal does not cause significant harm to neighbouring amenity.
- Shadow analysis submitted with the application does not demonstrate any serious injury to residential properties.
- The proposal complies with the criteria set out in Table 3 of appendix 3 of the Development Plan.
- The proposal fully complies with Section 15.9 of the Development Plan (Apartment Standards) including Section 15.9.8 (Communal Amenity Space).

- All outdoor areas would receive sufficient daylight and no space would be permanently under shadow.
- Communal open spaces receive shade and relief from strong sunlight during the summer months.
- The proposal has exceeded minimum requirements to create a unique variety of secluded outdoor spaces.
- The retention of no. 6 Kilmainham Lane and application of objective BHA11 cannot be justified. Consent for demolition on adjacent site planning ref: ABP-300972 cited as precedent.
- The delivery of apartments on this site aligns with the existing pattern of development in the area.
- The planning authority did not consider the site specific advantages of the northern site, nor the careful planning and mitigation measures that were implemented by the design team.
- Nature based measures are not appropriate on the subject site.

Transport/Roads/Parking:

- Potential widening of the Shannon Terrace pinch point was referenced in the transportation report, would involve lands outside the client's ownership and as this is a car free development no additional vehicular access is required via Shannon Terrace.
- In accordance with SPPR — 3 of the Compact settlements Guidelines and table 3.1 therein it is proposed to wholly eliminate car parking from the site which is in accordance with the recommendations of this document.
- Servicing including arrangements for bin collection from existing residents on Shannon Terrace shall be made for operation of the Bus Connects Core Bus corridor and it is anticipated these arrangements would be extended to the proposed development.
- A condition requiring a loading bay on Kilmainham Lane for servicing purposes could be incorporated into a grant of permission.

- If deemed necessary a Traffic & Transportation Assessment and Parking Management Plan could be provided via an appropriately worded condition.

Flooding:

- The site is subject to a vacant site levy, therefore the site is suitable for development.
- The development has been specifically designed above flood levels, by way of FFL above 1%AEP, therefore passing justification test, this was not taken into account in consideration of flood risk.
- The function of the flood plain is retained and improved by the proposal.
- The justification test at section 5.4 of the SSFRA submitted with the application found that the development was appropriate for the site, subject to mitigation by means of a suspended ground floor retaining the volume of attenuation and elevating the vulnerable use above the flood risk, resulting in the absence of a requirement of a stage 3 assessment.
- Precedent in consideration of flooding and the resultant decisions on 2 sites in the vicinity are referenced, 6705/07/x1 and 2009/20 ABP-309795-21
- There are precedents for the proposed mitigation of flooding in the area of the proposal.
- Loss of visual amenity, flood plain function and ecology is not substantial as no trees of value on the site, all trees are required to be removed to facilitate the proposal.

7.2 Planning Authority Response

Dublin City Council request An Coimisiún uphold the decision to refuse permission. If An Coimisiún decide to grant, the DCC response requests that conditions be attached relating to payment of contributions and a bond as well as social housing and naming and numbering conditions.

7.3 Observations

Observations were received from John Porter and Peter Keenahan. The observations are summarised as follows:

- The refusal reasons by DCC are substantial reasons
- No internal daylight and sunlight analysis has been submitted
- No justification for demolition of No. 6 Kilmainham Lane
- Transportation section of DCC concerned re: car free aspect
- Bike parking insufficient
- Servicing and access strategy required
- Construction traffic management plan required
- Archaeological Assessment required as falls into DU018-020.
- Proposed design has had no regard to the historic context of the site.
- High density residential development necessary.
- The subject site presents design challenges.
- The proposal is of bulky and generic design.

7.4 Further Responses

Notice was issued under the provision of S.131 to An Taisce and The Heritage Council invoking Article 28 inviting response before 23/10/25. There is no record of a response on file.

8 Assessment

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

- Development principle.

- Zoning objective
- Density
- Plot ratio and site coverage
- Height
- Development plan appendix 3 criteria
- Built Heritage Impact
- Urban Design
- Precedent
- Existing residential amenity.
- Amenity of future residents
- Access and transportation
- Drainage and flooding
- New issue – material contravention
- Other matters

8.1 Development principle.

8.1.1 Zoning objective

The site is zoned Z1-Sustainable Residential Neighbourhoods, the land-use zoning objective is 'To protect, provide and improve residential amenities'. 'Residential' is listed as a permissible use within this land-use zoning. The planning authority regard the development as acceptable in principle. I consider that by virtue of the consideration and application of the Z1 zoning objective that the principle of residential development on the site to be acceptable subject to the assessment of the various considerations set out below.

The subject site falls within SDRA 7 and therefore SDRA01 makes it an objective of the plan to support the ongoing redevelopment and regeneration in accordance with the guiding principles.

Various policies, objectives and supporting text of spatial plans including the Dublin City Development Plan as set out above seek to support consolidation, regeneration, intensification and densification of residential development in central accessible locations. Given its location, close proximity to the city centre, public transport corridors and taking account of the surrounding pattern of development I consider the site is suitable for residential development of significant density subject to the assessment of the various considerations set out below including the prevailing physical context.

8.1.2 Density

The Development Plan states that Sustainable densities in accordance with the standards set out in the Guidelines on Sustainable Residential Development in Urban Areas 2009 will be supported and states that in city centre locations such as the subject site net densities in the range of 100-250 units per hectare will be supported. Schemes in excess of this density will only be considered in exceptional circumstances where a compelling architectural and urban design rationale has been presented. These ranges and the application thereof is consistent with the provisions of the Sustainable Residential Development and Compact Settlements Guidelines 2024 which advocate for a range of 100 to 300 dph net. subject to the assimilative capacity of the receiving environment as described in section 5 above.

The proposed net density described by the applicant is 264 uph, and as calculated for the purpose of this assessment is c. 290 uph (see table at section 2.0 of this report) both of which exceed densities supported by the City Development Plan.

The proposed net density exceeds that of the prevailing character of both the immediate and wider context. Therefore in accordance with the Dublin City Development Plan specific analysis of the proposal against the Performance criteria APP 3 which include density scale and height are set out in section 8.1.5 below.

As the upper end of the City Development Plan range, at 250 uph, is exceeded by the proposed net density of c. 290 uph, only in the event of a compelling architectural and urban design rationale being presented could the proposal be considered to be compliant. No such rationale has been presented. These would appear to be specific quantitative provisions stated in precise terms, with a specific requirement for

justification where exceeded which would be contravened if the proposed development were permitted. The proposal if permitted would for that reason be in contravention of the Development Plan. By virtue of both the magnitude of the exceedance and the absence of a rationale the contravention is considered to be material.

8.1.3 Plot ratio and site coverage

Dublin city Development Plan states that, all applications should be accompanied by inter alia a calculation of plot ratio and site coverage. Table 2 of Appendix 3 provides the indicative plot ratio and site coverage standards. In absence of definition, I am assuming that plot ratio and site coverage as provided for in the Development Plan are factors of gross site area in contrast to net site area utilised for density

As a site in the central area table 2 indicates a plot ratio (gross floor area of the building (s) divided by the site area) of 2.5 to 3.0 and site coverage (the percentage of the site covered by building structures excluding public roads and footpaths) of 60-90%. As a site in a conservation area (north parcel) Table 2 indicates a plot ratio of 1.5 to 2.0 and site coverage 45 to 50% for the conservation area. The proposal presents an overall plot ratio of 2.5 and site coverage of 53.4% thereby meeting the lowest indicative plot ratio and falling below the indicative site coverage for the central area, and exceeding plot ratio and site coverage for the conservation area. These plot ratio and site coverage requirements appear to be specific quantitative provisions stated in precise terms, from which the proposal deviates. The text of Appendix 3 immediately following Table 2 sets out that higher plot ratios and site coverage may be permitted in certain circumstances. No provision is made for lower plot ratios or site coverage, so it could be interpreted that the lower end of the ranges are in fact minimum levels.

I note that although Appendix 3 forms an important part of and is referenced within policies and objectives of the City Plan, Plot Ratio and Site coverage are not specifically referenced directly in any policy or objective.

The stated intention for use of these tools is to control bulk and mass of proposals in City Development Plan. Taking account of the wider policy context, competing policy provisions relating to the subject site and its context, these controls are not suitable

for use on the subject site and for that reason a contravention of this indicative objective would not be material. I am therefore giving the indicators no further consideration for assessment of the subject proposal.

8.1.4 Height

The grounds of appeal include consideration of the principle of increased building height in the area. The refusal of permission by the Planning Authority is not concerned with the principle of increased height in the area but is concerned with the consequences of the height as a factor in the design of the proposed development.

Development Plan policy SC17 makes reference to performance based criteria set out in Appendix 3 and states that building height shall protect and enhance the skyline and ensure a design led approach and a positive contribution to character.

Section 4 of appendix 3 of the Dublin City Development Plan addresses how sustainable height and density can be achieved which includes performance criteria. An assessment of the proposal against these criteria is set out in section 8.1.5 below.

Overarching principles for development in Strategic Development Regeneration Areas in objective SDRA01 include consideration of height. Where development adjoins lower scaled residential communities, the development must be appropriately designed so that no significant adverse impacts on those communities arise. As set out below the proposal will result in significant negative impacts on existing residential amenity including as a consequence of the proposed height.

The principles set out for SDRA7 specifically addresses height. Locations where locally higher buildings are supported in policy subject to conservation and design considerations are listed and identified on the guiding principles map. The subject site is not identified as such a location. For that reason and otherwise I consider the subject proposal does not fall into the category of Landmark/Tall buildings and for that reason I consider assessment against the criteria of table 4 of Appendix 3 to be unnecessary.

As expressed throughout each provision of the CDP and each relevant S28 Guideline described in section 5 above the suitability for increased height and

density in a given location relates to successful integration into the surrounding area, with justification provided by the applicant.

Based on the analyses in 8.1.5 below it is concluded that the proposal if permitted will form a new skyline. The impact of the new skyline will impact on the character of Kilmainham Lane in particular. If permitted the skyline would be incongruous with the established built form of the area, will not enhance or protect the existing skyline and is for that reason contrary to policy SC17 and BHA09 which seeks to protect the character of the conservation area.

The impact of the proposal including as a result of its height on the character of the area and existing and future residential amenity exceeds the capacity of the site.

8.1.5 Assessment Criteria from Appendix 3 of City Development Plan 2022-2028

Key criteria from page 220 of Appendix 3 which all proposals for increased urban scale, density and height must demonstrate include:

Criteria	Assessment of the proposal
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.	Would provide new homes in accordance with policy. However concerns arise in consideration of impacts in a number NPO's including 11, 12, 22, 43 by virtue of the proposed design.
Proximity to high quality public transport connectivity, including key public transport interchanges or nodes.	Would be proximate to high quality public transport. (see discussion under section 8.4)
Proximity to a range of employment, services and facilities.	Would be proximate to employment, services, and facilities.
Provision of adequate social and community infrastructure.	No Community and Social Audit as described in table 5-1 of the City Development Plan has been submitted and therefore carrying capacity of social and community infrastructure has not been demonstrated. However taking account of the scale of the proposal and extent and long standing nature of the receiving community it is anticipated that the impact on community and social infrastructure would be negligible relative to the baseline.
The availability of good walking, cycling and public transport infrastructure.	Good walking, cycling and public transport infrastructure is available
Appropriate mix of uses, housing typologies and tenures.	A mix of housing typologies and tenures proposed is consistent with mandated requirements.
The provision of high quality public open space and public amenities.	Proposed Public open space falls below standards aspired to in policy (see discussion under section 8.3 below).
The resilience of the location from a public access and egress perspective in the event of a major weather or emergency or other incidents.	Pedestrian access is proposed to 2 separate public roads and is therefore resilient. Access for emergency vehicles has not been outlined in the proposal. The area surrounding the southern parcel is subject to flood risk, in the event of a flood related power cut a significant effort would be required for residents particularly on higher floors in the southern block to evacuate to Kilmainham Lane.

That the ecological and environmental sensitivities of the receiving environments have been adequately assessed and addressed.	The Camac, the naturalised habitats to its banks and its riparian area has not been adequately assessed or addressed (see discussion under section 8.5 below)..
Appropriate design response that considers the characteristics of the site, any development constraints and prevailing character.	The design response to characteristics of the site and prevailing character is inadequate.
Adequate infrastructural capacity.	No suggestion of any infrastructural constraints by any statutory or non-statutory participant to the process.

Assessment of Table 3 criteria

	Objective	Performance Criteria in Assessing Proposals for Enhanced Height, Density and Scale	Assessment of enhanced height, scale and density
1.	To promote development with a sense of place and character	<p>Enhanced density and scale should:</p> <ul style="list-style-type: none"> • respect and/or complement existing and established surrounding urban structure, character and local context, scale and built and natural heritage and have regard to any development constraints, • have a positive impact on the local community and environment and contribute to 'healthy placemaking', • create a distinctive design and add to and enhance the quality design of the area, • be appropriately located in highly accessible places of greater activity and land use intensity, • have sufficient variety in scale and form and have an appropriate transition in scale to the boundaries of a site/adjacent development in an established area, • not be monolithic and should have a well-considered design response that avoids long slab blocks, • ensure that set back floors are appropriately scaled and designed. 	<p>The proposal fails to promote a sense of place and character respecting and complementing the surrounding area as set out elsewhere in this report.</p> <p>A positive impact could accrue to the local community and environment and contribute to 'healthy placemaking' by opening a new pedestrian route, and redevelopment of a brownfield site for housing. However, the proposal will not enhance the quality design of the area..</p>

	Objective	Performance Criteria in Assessing Proposals for Enhanced Height, Density and Scale	Assessment of enhanced height, scale and density
2.	To provide appropriate legibility	<p>Enhanced density and scale should:</p> <ul style="list-style-type: none"> • make a positive contribution to legibility in an area in a cohesive manner, • reflect and reinforce the role and function of streets and places and enhance permeability. 	<p>Although by virtue of the new pedestrian thoroughway the proposal would enhance permeability it will not contribute positively to legibility as described in section 8.1.6 and elsewhere in this report.</p>
3.	To provide appropriate continuity and enclosure of streets and spaces	<p>Enhanced density and scale should:</p> <ul style="list-style-type: none"> • enhance the urban design context for public spaces and key thoroughfares, • provide appropriate level of enclosure to streets and spaces, • not produce canyons of excessive scale and overbearing of streets and spaces, • generally be within a human scale and provide an appropriate street width to building height ratio of 1:1.5 – 1:3, • provide adequate passive surveillance and sufficient doors, entrances and active uses to generate street-level activity, animation and visual interest. 	<p>The proposal would create continuity and enclosure which would be incongruent with the respecting existing and creation of new quality urban spaces.</p> <p>Scale of the proposed elevation to Kilmainham Lane will alter the enclosure of that street to its detriment. The height to width ratio to Shannon Terrace is in breach of the performance criteria with inadequate street level activity.</p>

	Objective	Performance Criteria in Assessing Proposals for Enhanced Height, Density and Scale	Assessment of enhanced height, scale and density
4.	To provide well connected, high quality and active public and communal spaces	<p>Enhanced density and scale should:</p> <ul style="list-style-type: none"> • integrate into and enhance the public realm and prioritises pedestrians, cyclists and public transport, • be appropriately scaled and distanced to provide appropriate enclosure/exposure to public and communal spaces, particularly to residential courtyards, • ensure adequate sunlight and daylight penetration* to public spaces and communal areas is received throughout the year to ensure that they are useable and can support outdoor recreation, amenity and other activities – see Appendix 16, • ensure the use of the perimeter block is not compromised and that it utilised as an important typology that can include courtyards for residential development, • ensure that potential negative microclimatic effects (particularly wind impacts) are avoided and or mitigated, • provide for people friendly streets and spaces and prioritise street accessibility for persons with a disability. 	<p>The proposal fails to provide well connected, high quality and active public and communal spaces as described in section 8.2, 8.3 and elsewhere in this report the proposal will create a sense of overbearing.</p> <p>By virtue of the orientation, separation and scale of the proposed blocks, there will be insufficient sunlight and daylight penetration to public and communal spaces to ensure usability throughout the year as described further in section 8.3.</p> <p>Although ramps, external platform lifts and internal lifts are proposed for each level change, the extent of level changes proposed at ground level renders the open space provision functionally fragmented and uninviting to persons of reduced mobility.</p>

	Objective	Performance Criteria in Assessing Proposals for Enhanced Height, Density and Scale	Assessment of enhanced height, scale and density
5.	To provide high quality, attractive and useable private spaces	<p>Enhanced density and scale should:</p> <ul style="list-style-type: none"> not compromise the provision of high quality private outdoor space, ensure that private space is usable, safe, accessible and inviting, ensure windows of residential units receive reasonable levels of natural light, particularly to the windows of residential units within courtyards – see Appendix 16, assess the microclimatic effects to mitigate and avoid negative impacts, retain reasonable levels of overlooking and privacy in residential and mixed use development. 	<p>The quality of proposed private open space varies but generally fails with particularly poor consideration of the poorly defended winter gardens to ground floor units, with no separation from the public open space. Poor access to daylight and sunlight and significant overshadowing will be the case for private open space and apartments particularly at lower levels in both blocks in all orientations as discussed in section 8.3.</p> <p>Direct overlooking of existing private open space from proposed communal open space as described in section 8.2 is considered unreasonable.</p>
6	To promote mix of use and diversity of activities	<p>Enhanced density and scale should:</p> <ul style="list-style-type: none"> promote the delivery of mixed use development including housing, commercial and employment development as well as social and community infrastructure, contribute positively to the formation of a ‘sustainable urban neighbourhood’, include a mix of building and dwelling typologies in the neighbourhood, provide for residential development, with a range of housing typologies suited to different stages of the life cycle. 	<p>Not mixed use, residential zoning however a mix of apartment types are proposed.</p>

7	To ensure high quality and environmentally sustainable buildings	<p>Enhanced density and scale should:</p> <ul style="list-style-type: none"> • be carefully modulated and orientated so as to maximise access to natural daylight*, ventilation, privacy, noise and views to minimise overshadowing and loss of light – see Appendix 16, • not compromise the ability of existing or proposed buildings and nearby buildings to achieve passive solar gain, • ensure a degree of physical building adaptability as well as internal flexibility in design and layout, • ensure that the scale of plant at roof level is minimised and have suitable finish or screening so that it is discreet and unobtrusive, • maximise the number of homes enjoying dual aspect, to optimise passive solar gain, achieve cross ventilation and for reasons of good street frontage, • be constructed of the highest quality materials and robust construction methodologies, • incorporate appropriate sustainable technologies, be energy efficient and climate resilient, • apply appropriate quantitative approaches to assessing daylighting and sun lighting proposals. In exceptional circumstances compensatory design solutions may be allowed for where the meeting of sun lighting and daylighting* requirements is not possible in the context of a particular site (See Appendix 16), • incorporate an Integrated Surface Water Management Strategy* to ensure necessary public surface water infrastructure and nature based SUDS solutions are in place – see Appendix 13, • include a flood risk assessment see SFRA Volume 7. • include an assessment of embodied energy impacts – see Section 15.7.1. 	<p>An energy and sustainability/Climate Action report has been submitted with the application which sets out principles and technologies towards a sustainable development although reference is made to embodied energy and policy CA8 of the City Development Plan no such assessment has been submitted</p> <p>No quantitative or qualitative approach to assessing daylighting and sun lighting proposals has been submitted in support of the proposal. However due to orientation, scale and proximity it is evident that a number of existing and proposed residential units will not receive reasonable levels of natural light. Described further in sections 8.2 and 8.3.</p> <p>Taking particular account of the extent of extant biodiversity on the subject site the nature-based elements of the proposal are minimal.</p> <p>A flood risk assessment has been submitted, refer to section 8.5 of this assessment.</p> <p>Although reference is made to embodied energy and policy CA8 of the City Development Plan no such assessment has been submitted.</p> <p>When assessed against the performance criteria the proposal fails to achieve objective 7 to ensure high quality and environmentally sustainable buildings</p>
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	Objective	Performance Criteria in Assessing Proposals for Enhanced Height, Density and Scale	Assessment of enhanced height, scale and density
8	To secure sustainable density, intensity at locations of high accessibility	<p>Enhanced density and scale should:</p> <ul style="list-style-type: none"> be at locations of higher accessibility well served by public transport with high capacity* frequent service with good links to other modes of public transport, look to optimise their development footprint; accommodating access, servicing and parking in the most efficient ways possible integrated into the design. 	The subject site is suitable for increased density and height and the design has optimised the numerical yield of units to the extent that the density and height exceed the capacity of the site.
9	To protect historic environments from insensitive development	<p>Enhanced density and scale should:</p> <ul style="list-style-type: none"> not have an adverse impact on the character and setting of existing historic environments including Architectural Conservation Areas, Protected Structures and their curtilage and National Monuments – see section 6 below. be accompanied by a detailed assessment to establish the sensitivities of the existing environment and its capacity to absorb the extent of development proposed, assess potential impacts on key views and vistas related to the historic environment. 	The proposal will result in insensitive and adverse impact on the setting of Kilmainham Hospital, and the character of the associated conservation area and the existing historic environment of Kilmainham Lane in particular (see section 8.1.6 below)..
10	To ensure appropriate management and maintenance	<p>Enhanced density and scale should</p> <ul style="list-style-type: none"> Include an appropriate management plan* to address matters of security, management of public/communal areas, waste management, servicing etc. 	There are a number of management matters of security, management and maintenance particularly of the proposed walkway and public/communal areas which are described in sections 8.1.7, 8.2 and 8.3.

* Considered to be matters of fact in contrast to general and subject to planning judgement.

In conclusion I consider the proposal not to meet the standard set out by the Key Criteria and Performance Criteria in Table 3 as described above for either enhanced height or density.

8.1.6 Built Heritage Impact

The proposed northern block is located across the road at circa 17m due south of the boundary wall of Kilmainham Hospital (RPS 5244) with the highest point of the proposal c. 12m above the boundary wall. No drawings have been submitted with the application demonstrating this relationship in plan, section, elevation or photomontage.

The site of the northern block falls within a CDP designated conservation area and No 6 Kilmainham Lane appears on historic maps up to and including the Ordnance Survey of Dublin City, 1847. For those reasons and in addition to the built character of the area the development is subject to policies and objectives relating to built heritage in Chapter 11 of the Dublin City Development Plan as outlined in section 5.1.7 above.

The development will be visually prominent and will form a new skyline visible from within curtilage of the Royal Hospital, to an undefined extent and distance. Whilst there are several significant recent developments visible from within the curtilage of the Royal Hospital, including the Children's Hospital and the Criminal Courts and more recently Brookfeild Heights these precedents are not directly comparable given the proximity, setting, scale, and design relative to the subject proposal. The absence of consideration or assessment of impact on built heritage in general and of the Royal Hospital in particular is evident in the proposal. The architectural form of the Kilmainham Lane elevation combined with its proximity and height give rise to a prominence that militates against the protection of the setting of the protected structure.

Consideration of the impact of the proposal on the setting of the protected structure represents a new issue. However having regard to the other substantive reasons for refusal set out below, I do not consider it necessary to pursue the matter to the extent of seeking the views of parties regarding the extent of the impact of the proposal on Kilmainham Hospital, its curtilage and its setting as a protected structure.

In addition to the status of the Royal Hospital as a protected structure, a conservation area objective centred on the Royal Hospital extends to the river

Camac incorporating the northern portion of the subject site including No. 6 Kilmainham Lane which it is proposed to demolish. Section 11.5.3 of the City Development Plan in consideration of the conservation area states a *general presumption against development which would involve the loss of a building of conservation or historic merit within the Conservation Areas or that contributes to the overall setting, character and streetscape*. This is followed by the statement and any such proposal will require a detailed justification. By virtue of its consistency, notwithstanding the current flat roof no. 6 contributes to the overall setting, character and streetscape.

Policy BHA6 of the City Development Plan states *that there will be a presumption against the demolition or substantial loss of any building or other structure which appears on historic maps up to and including the Ordnance Survey of Dublin City, 1847*. Justification for demolition of such structures appears to be open for consideration in the event of the submission of a conservation report finding of *little or no special interest or merit having regard to the provisions of the Architectural Heritage Protection Guidelines for Planning Authorities (2011)*. No such report has been submitted with the application or in support of the appeal. By way of reference to policy provision seeking retention, the grounds of appeal simply state that retention of no. 6 is not appropriate given its location and the need to achieve density.

BHA6 and BAH11 which seeks rehabilitation and reuse of existing older buildings and BAH16 which seeks for regard to be had to Industrial Heritage are referenced in the report of the City Archaeologist to the Area Planner in Dublin City Council which concluded with a request for additional information.

The demolition of No. 6, if permitted would represent a contravention of the intent of the above reference text relating to conservation areas and of policy BAH6 and policy BAH11 (subsection a) of the CDP which sets out a presumption against demolition of the subject property in the absence of an assessment and justification. If demolition of No.6 Kilmainham Lane were consented in the absence of assessment and justification such consent would represent a material contravention of the City Development Plan.

Kilmainham Lane, Shannon Terrace and the Old Kilmainham Road are of a distinctive historic character, with modern interventions. The character, established by the built form and older buildings remains dominant and is protected by development plan policy including the above referenced Conservation Area. The Proposal to demolish no. 6 Kilmainham Lane would result in erosion of this established character. The character of Kilmainham Lane, as a part of a Conservation Area and otherwise would be further diminished by virtue of the poorly considered proposed design presented to Kilmainham Lane.

By virtue of its height, massing, scale and grain, the proposal fails to respect and/or complement established surrounding built character and would if permitted and constructed result in a negative impact on the setting of a protected structure the character of a conservation area and the built character of the area.

8.1.7 Urban design

The culmination of the above referenced elements and measures of the City Development Plan, and Guidelines set out in section 5 contribute to the assessment of the urban environment.

The 5 storey Kilmainham Lane elevation with glazed stairwells book ending the central 4 storey plus roof terrace as a device of architectural articulation is acknowledged. However, taking particular account of the street width to height ratio, the topography, prevailing built height and urban grain and relationship with built form in the immediate and wider context I consider the central symmetry, scale, bulk, massing, roof terraces and setback lightwell void to the edge of Kilmainham Lane to be defensive and monolithic relative to the prevailing context. The design would contribute to a sense of overbearing from the urban laneway character of Kilmainham Lane. For that reason I consider the proposal to be poorly designed for its context. I consider the extent of the set back at upper storeys to be inadequate to address the presentation of poorly articulated gables to the east and west thereby conflicting with the built character. The design and use of the setback of upper floors for communal open space undermines any potential contribution these setbacks could afford towards the protection of the amenity of adjacent property on Kilmainham Lane.

I consider the proposal fails to demonstrate adequate transition in scale to boundaries generally to both sides of Kilmainham Lane, and Shannon Terrace in particular.

I do not consider the proposal will contribute to legibility in any meaningful way by virtue of the poor presentation of the proposed pedestrian access to and from both public roads.

The design of the northern block provides little or no activation with only 2 street entrances on to Kilmainham Lane, without acknowledgement of the established rhythm of own door units directly accessing the street including in the adjacent St. Johns Well apartment development.

The newly proposed elevation to Shannon Terrace presents a circa 2m ground to sill level blank brick wall as a result of flood mitigation measures, I consider this a poor presentation from an urban design perspective. This elevation presents, at ground/street level, within an otherwise highly symmetrical elevation an asymmetrical architectural device described as a metal decorative panel. This presents in the form of access doors to a non-existing ground floor at street level. In addition to the incongruent aesthetic of this detail I consider the absence of an access to the Shannon Terrace Elevation of the southern block to further contribute to a lack of activation at street level thereby contributing to poor urban design. The interface of the southern block with Shannon Terrace street level in addition to the poor aesthetic may negatively impact future development of adjacent sites. Any successful future development of the contiguous site to the south will have to reconcile the proposed floor level on Shannon Terrace with the existing floor levels of the old Kilmainham Road.

Insufficient passive supervision of spaces is a feature of the proposal generally with poor passive surveillance including of access routes, entrances, bike stores, communal and public open spaces. An example is the public open space to the north east corner of the southern block. This is bound by internal uses consisting of a stairwell, plant room, water tanks and bin store at ground floor. Although there is potential passive surveillance from the northern block, I consider that by virtue of the shape of this open space (which is as a result of the sewer diversion wayleave) and due to the building on the adjacent site to the east, the oblique and obscured view is

inadequate for a publicly accessible open space. The extent of passive supervision by way of overlooking of the proposed external stairwell to the west of the northern block is equally of concern.

Designated public open space as illustrated and annotated on drawing 101 Proposed Site Layout Plan, extends to a stated 303 sqm. This public open space consists of a collection of small spaces of limited functionality, separated by footpaths steps and ramps which will negatively impact on functionality.

The permeability and open spaces are ungenerous in scale and form, uninviting, unclear in function and are unlikely to contribute to a sense of safety of future occupants or non-occupant users. Levels of sunlight to the public and communal open spaces at street level remain a concern. The narrow confined external steps to the west of the northern block are particularly poorly integrated to the proposed urban form and would represent a challenge for vulnerable people or persons of reduced mobility. The management/maintenance of the public open spaces and the proposed route through the development will be challenging and is not presented within the application. The north-south permeability route through the site indicated in the SDRA7 map is indicated at an angle more acute to the contour lines than that proposed which could present an appealing aesthetic in a more accessible and integrated design.

I consider the proposal does not achieve a quality of urban design or legibility envisaged in policy for proposals on urban sites with greater height and density potential such as this. The proposed development if permitted would be inconsistent with the City Development Plan and Section 28 Guidelines as set out above in section 5 of this report.

8.1.8 Precedent decisions

Precedent decisions are presented in the grounds of appeal to make a case for the scale of development proposed. A detailed planning history is set out above in section 4 of this report including all precedents referenced in the grounds of appeal.

The build to rent development permitted on 72-74 Old Kilmainham Road to the opposite side of the Old Kilmainham Road is referenced in the grounds of appeal and presented on drawings as a 7 storey building. The application was made for 7

storeys. However, it was reduced by 2 storeys by condition. It is a corner site with an elevating backdrop and different context to that of the subject site.

The unbuilt, permitted 4 and 5 storey development to the west of Shannon terrace is of a more conventional site type with a building of scale to its western side. Although proximate this permitted development is not comparable to the subject site and does not in my opinion set a comparable precedent for the proposal under consideration.

The Brookfield Heights apartment development on the former Fodhla printing works site at a distance of c.140m and the Childrens Hospital at a distance of c. 250m currently break the visible skyline in the direction of Kilmainham Lane and the old Kilmainham Road, from ground level within the curtilage of the protected structure. I consider the design of those developments and the distance from the Royal Hospital to be material in consideration of the baseline and of the magnitude of impact thereon. I do not consider the Children's hospital or Brookfield Heights set a precedent for the visual impact of the proposal relative to the Royal Hospital.

I do consider that there is scope for significant height on subject site. However, the design presented fails to integrate with its surroundings and would have a negative and visually obtrusive impact and set a poor precedent in the area. I recommend refusal for the reason that the proposed development would be visually obtrusive and have a negative impact on the visual amenities of the area.

8.2 Existing residential amenity

Reason for refusal number 2 states that the proposal *would negatively impact the residential amenity of neighbouring properties, resulting in overbearing, overlooking, and overshadowing impacts*. The grounds of appeal relating to existing amenity are confined to general statements. The grounds reiterate the policy imperative to deliver new housing units without acknowledging the requirement to protect existing amenity as required by the Z1 zoning objective and otherwise in accordance with policy and the proper planning and sustainable development of the area.

Potential impacts on existing residential amenity are not detailed in the application or in the grounds of appeal. A community and social audit as prescribed by table 15-1 and section 15.8.2 as referenced above was not submitted. No consideration of zero

parking on existing residential amenity including overspill parking has been submitted.

15.9.17 of the City Development Plan references the traditional 22m minimum separation distance between opposing first floor windows and requires that in all instances of the minimum distance not being met that each development will be assessed on a case by case basis in terms of the wider design quality and residential amenity.

The Compact Settlements Guidelines for Planning Authorities 2024 acknowledge the role of separation in sunlight daylight and privacy and that modern modelling techniques can achieve and maintain high levels of amenity in development without mandatory separation distances. SPPR1 of the Compact Settlements Guidelines 2024 deals with separation distances and describes a minimum of 16m for separation distances between opposing windows serving habitable rooms at the rear or side of houses duplex or apartments. Separation distances below 16 metres may be considered acceptable in circumstances where there are no opposing windows serving habitable rooms and where suitable privacy measures have been designed into the scheme. No minimum separation distance is prescribed at ground level, to the front of houses, duplex units or apartment units. The SPPR states that all cases shall be determined on a case-by-case basis to prevent undue loss of privacy. The SPPR places the onus on the proposer to demonstrate the absence of significant negative impact on amenity to the PA or ACP. No such justification has been submitted in support of the subject application.

The communal open space roof terrace bound by a clear glass screen proposed to the western side of the 4th Floor of the northern block will directly overlook the rear gardens of the 2 storey houses on Kilmainham Lane to the west.

Corner balconies and living dining and bedroom windows to the western elevation of the second floor of the southern block at ground, first, second and a communal open space terrace at 3rd Floor are proposed to directly oppose the front windows of Shannon Terrace at a distance of 11m. Southern elevation windows and balconies are located at a distance of less than 9.5m from the private open space (rear gardens) and less than 20m to the rear elevations of houses fronting onto the Old

Kilmainham Road. Separation between the northern elevation of the northern block and properties to the opposite side of the Kilmainham Lane are noted at 11.54m.

Shannon terrace has a reported ground floor level of c. 8.7 AOD I am therefore assuming a first floor estimated at c.11 AOD.

The proposed Shannon Terrace elevation incorporates 77.4sqm of communal open space at level 3 (20.75 AOD), 4 habitable rooms at level 2 (17.45AOD) with 16 linear meters of balcony, 3 habitable rooms with 1.7m of balcony at level 1 (14.15 AOD) and 2 habitable rooms with 1.7m of balcony (10.85 AOD) at level 0 consisting of kitchen living dining spaces. The windows, balconies of upper levels will have oblique views into the sensitive receptor windows and as such the field of view will be substantially less than that available from/to the level 0 rooms.

Street level (level 2) of the frontage onto Kilmainham Lane presents only 5 windows from habitable rooms, each from bedrooms at 17.45 AOD. Level 3 presents 8 habitable rooms with 3 balconies at 20.45 AOD all at a distance of 11m from the houses opposite with a ground floor level of c. 17.3 AOD for the 3 single storey and one 3 storey houses directly opposite.

All windows and balconies from ground floor, level 0 of the southern block will be blocked from overlooking the private open space and opposing rear windows of houses fronting onto on Old Kilmainham Road. 4 balconies and 8 habitable rooms at level 1 southern block will at a FL of 14.15 AOD have views over the proposed bike shed at a separation of 9.4m into the private open space and rear windows of the houses at a distance of 19.8m. Views from level 2 are likely to be more direct into the gardens over the top of the bike store.

In the absence of any case to the contrary I consider the potential for and perception of overlooking, when taken in combination with other impacts on the existing residential amenity is lacking justification and may exceed the expectation afforded by the land use zoning objective to protect residential amenity and otherwise.

Potential impacts of height, separation and orientation on residential amenity include those on light. A Daylight and Sunlight Assessment as required by table 15-1 of the city development plan and described in further detail in Appendix 16 of the City Development Plan and by S28 guidelines neither forms part of the application nor part of the grounds of appeal and severely limits the assessment of impacts.

The design statement states that analysis of daylight levels for each unit was undertaken and that the results are presented on drawing numbers 3.1.600, 601, 602, 603, no reference is made to analysis of impact on existing residences but would form part of a standard modelling exercise. The quoted drawing numbers relate to a small-scale, low resolution shadow analysis modelling presented for 4 times of the day for each of 4 dates in the year, and demonstrate that the proposal will cast shadow on existing properties on all sides of the proposal. The proposal fails the 25 degree test advocated in section 2.2.5 of BRE 209 of 2011 for the ground and first floor windows of houses facing onto the Old Kilmainham Road, and Shannon Terrace with failure of the test for property to the north of Kilmainham Lane also. However, the level of detail submitted is insufficient to quantify and justify a reduction of minimum separation distances as envisaged in the City Development Plan and in the Compact Settlements Guidelines for Planning Authorities 2024.

The absence of details or demonstration by the proposer that the proposal will not result in a significant negative impact on the amenity of existing residents as required by table 15-1 and Appendix 16 of the City Plan and by section 5.3.1 and SPPR1 of the Compact Settlements Guidelines for Planning Authorities 2024 presents a significant deficiency in the proposal.

Notwithstanding the city centre location of the subject site, and the reasonable expectation of existing residents for densification and resultant impacts the application has failed to identify, quantify, mitigate or justify the impacts as required by the Dublin City Development Plan and relevant Section 28 Guidelines.

I agree with the planning authority that by virtue of its design, height, scale and massing the proposal would result in overlooking, overshadowing and the creation of a sense of overbearing on existing residential amenity of property in its vicinity to an extent that could not be reconciled in consideration of competing policy objectives for densification and could not be reconciled by way of condition.

8.3 Amenity of future residents

Refusal reason no. 2 states that the proposal fails to provide an adequate standard of communal and public open space for future residents.

The grounds of appeal state that *all future residents will enjoy a high standard of living owing to well-proportioned units with good outlook and generous communal amenity space* and that *the Commission should apply their discretion when it comes to shadow impacts in urban areas*.

The submitted housing quality assessment demonstrates compliance with quantitative standards with apartment floor areas and private open space provision compliant with minimum standards set out in the sustainable Urban housing: Design Standards for New Apartments as referenced in section 15.9 of the Dublin City Development Plan 2022-2028. The submitted housing quality assessment also demonstrates dual aspect ratios exceeding the requirements of the City Development Plan and SPPR 4 of the apartment guidelines without recourse to the exemption for sites below 0.25Ha.

303 sqm of public open space is proposed which represents in excess of 13% of the gross site area (See section 2.1 for range) this exceeds the 10% development plan requirement (Table 15-4) for public open space on Z1 zoning.

An area is designated within the proposed public open space for play equipment as required by section 15.8.8 of the City Plan. Financial contributions in lieu of open space are provided for in the Dublin City Section 48 Development Contribution Scheme and would be available as an option in the event of a quantitative shortfall but is not proposed.

504.5sqm of Communal open space is proposed which represents between 20% and 22.5% of the site area and an exceedance of the minimum prescribed requirement of 344sqm. Section 15.9.8 of the City Development Plan states that in the case of infill sites of up to 0.25 ha, the communal amenity requirements may be relaxed on a case-by-case basis.

The shadow analysis submitted with the application indicates that a small portion to the east end to the north of the river of the public open space is not in shadow at 9 am and 12 pm on the morning of the 21st March however this is considered inadequate data to conclude compliance with any of the standards set out in Appendix 16 of the City Plan including the, recommendation set out in section 3.3.7 of BR209 that at least half of the amenity area should receive at least 2 hours of sunlight on March 21st. BR209 suggests that in the absence of detailed calculation

the centre of the area should receive at least two hours of sunlight on 21 March. This is not the case for any of the ground level open space in the proposal.

As stated in Appendix 16, a high-density apartment development in the city centre will have a different expectation from an apartment development in the suburbs, and levels of daylight and sunlight availability will vary in line with both the site coverage, development height and density. However, in the absence of adequate reporting and justification, by virtue of the massing, orientation and design of the proposal it is reasonable to conclude that an acceptable standard of sunlight and daylight will not be achieved in instances of each class of open space, including balconies and wintergardens at lower levels. In the consideration of the 25 degree test advocated in section 2.2.5 of BRE 209 of 2011 it is reasonable, in the absence of evidence to the contrary that rooms and the following apartments B01, B04, B05, B10, B06, B01, A26, A20, A01, A02, A03, A04, A05, A11, A09, A08 and A 10 will not have access to adequate daylight and sunlight. In addition, I have concerns regarding access to sunlight and daylight in apartments B07, A27, A21, A14, A06 and A10.

The proposal fails to achieve privacy for ground floor private open space and a high standard of communal and public open space provision at ground level. Access to daylight and sunlight in these areas cannot be defined as adequate on the basis of data presented.

I consider the amenity value of the public open space adjacent to the river to be limited by virtue of being narrow strips dominated by paths, ramps and steps. Public open space to the northern bank would be further restricted if the design had regard to the necessity for separation / boundary treatment to ensure privacy and security at its interface with private open space.

The southern public open space is defined as a consequence of achieving minimum mandatory separation distances for a proposed sewer diversion. Potential for passive supervision is undermined by placing of inactive uses at ground floor in the north eastern corner of the southern block.

The amenity value of the area of communal open space to the south of the southern block in which the bike store is proposed is also severely undermined by a lack of generosity in its dimensions, height of its boundaries and consequent limited access to sunlight. I consider this space to be of insufficient amenity value to qualify for

consideration as useful communal open space particularly for a development of the scale and density proposed.

Whilst acknowledging the design challenge I consider the design of the central riverside public open space fails to capitalise on the significant amenity value of the river, the naturalised habitats to its banks and the potential it offers for high quality open space for future residents and visitors.

The design statement submitted with the application references a daylight study which was undertaken for each unit, which assessed factors including daylight incidence, amount of sky visible, the size of the windows, the dimensions of the rooms, and the intended use of each space. It states that a thorough evaluation of how much natural light each unit would receive was modelled using the Raycasting method, version 6.0.0.13. The design statement concludes that areas within the proposal will receive good levels of sunlight throughout the year. A detailed breakdown per unit is referenced in the design statement as being on drawings 3.1.600, 601, 602, 603. These drawing numbers are assigned to gross scale shadow analysis and not daylight levels, no further details regarding sunlight or day light for each unit have been presented in the application or in the grounds of appeal.

In the absence of day light and sunlight analysis and taking into account the extent of shadow indicated on the submitted shadow analysis I share the concerns of the planning authority regarding the amenity value of the central public, communal open and private open spaces. I also share concerns regarding the internal natural light environment of the apartments particularly those at lower levels of the development .

I consider, for the reasons set out above that the proposed design response to the site constraints results in a proposal that fails to meet an adequate standard of urban place making and amenity for future residents and would be inconsistent with the policy aspiration.

8.4 Access and transportation

Although not a reason for refusal the grounds of appeal contain a reconsideration of issues surrounding access and transportation.

Section 5, above table 2 of appendix 5 to the City Development Plan sets a maximum of 0.5 car parking spaces per apartment in Zone 1, provision is made for

relaxation in highly accessible locations. By virtue of its city centre location, and access to high frequency public transport in the form of bus, Luas and rail I consider the subject site suitable for consideration of a relaxation of parking standards.

Based on the requirements of TII's Traffic and Transport Assessment Guidelines (PE-PDV-02054) and specifically table 2.1 therein the applicant considers there to be no requirement for TTA/TIA. This is disputed in the report of City Council Roads Streets and Traffic Department having regard to other sections of those guidelines.

Table 15-1 of the City Plan sets a threshold of 50 units for a traffic and transport assessment to be submitted in support of an application, however, no such assessment was submitted as part of the application or with the appeal. Appendix 5 of the City Development Plan requires a Residential Travel Plan and states that a proactive mobility management strategy is required to support a zero parking development as proposed. A Mobility Management Plan (MMP) has been submitted which contains some information that would be expected in the required Residential Travel Plan, Transport Assessment, Delivery and Service Management Plan, TTA/TIA, and Bicycle Parking Management Plan each of which is a requirement of table 15-1 the City Development Plan. However, the level of detail, consideration and justification of the MMP is not commensurate with that of above referenced required reporting and the proposal is considered to fall short of the reporting requirements described in table 15-1 as well as in the provision of detail anticipated therefrom.

Appendix 5 of the City Development set out a set of criteria which an applicant would be required to include in a case for a reduction in parking standards. The report of the City Council Roads Streets and Traffic Department states that the submitted Mobility Management Plan (MMP) does not sufficiently address the broader implications of a car free development.

In relation to concerns regarding overspill of parking I note that the provision of development without the expectation of parking and on the basis of use of other modes of transport is a reasonable development approach in the city. I take this view with consideration of the traffic and transport implications of alternative uses of the subject site including the most recent established, industrial use of the southern portion. I note that the Planning Authority have control over the level of parking permits in the area and that this level of control in conjunction with the fact that the

site is accessible to other modes of transport along with the expectation of no parking could deal adequately with the specific issue of overspill. However, in the context of the subject development a car free scheme of this scale is not considered by the City Council Roads Streets and Traffic Department to be appropriate. The DCC internal report states that by virtue of the absence of any drop-off, servicing, accessible and visitor parking the current proposal does not meet policy SMT27 which requires sustainable levels of parking.

Operational servicing, construction access and access for emergency vehicles to the development from Kilmainham Lane and Shannon Terrace present multiple challenges and would be likely to require significant justification, redesign and/or reconsideration/reorganisation of a public roadway and its use. Resolution of these issues by way of a condition of a grant by An Coimisiún requiring provision of a drop off/servicing area as proposed by the applicant in the grounds of appeal is not considered appropriate.

Compliance has not been demonstrated with the quantitative bicycle parking standards set out in appendix 5 of the CDP, inconsistencies between calculations undertaken and a shortfall in the total and atypical bike space provision are noted in the City Council Roads Streets and Traffic Department report. Given the zero-car parking nature of the proposal a significant exceedance of minimum standards would have been anticipated to contribute to the case for zero car parking.

A lack of integration of cycling into the overall design renders the proposal non-compliant with qualitative aspects of cycling provision. Access to the bike stores from street level entails the use of lifts/stairs and multiple doorways and or gates, to an extent that bicycle use would be less attractive than that expected of a proposal of this nature and as aspired to in City Plan, Sustainable Urban Housing: Design Standards for New Apartments and Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities 2024. The deficiencies in the bicycle friendly design are integral to the design presented and could not be addressed by condition.

The subject site could in principle accommodate a zero parking development in compliance with the City Development Plan policy as set out under policy SMT27 and Section 16.38.8, the recommendations of the Sustainable Urban Housing:

Design Standards for New Apartments Guidelines for Planning Authorities, December 2022/July 2023 and SPPR 3 of the Compact Settlements Guidelines for Planning Authorities 2024. However, a combination of inadequate design and insufficient justification render the subject proposal unsuitable for a zero-parking residential development.

8.5 Drainage & flooding

The northern site is within Flood Zone C. The southern site is in Flood Zone A with the exception of the footprint of the factory which it is proposed to demolish.

The report of the Drainage Division of Dublin City Council recommends that the proposal should be refused due to its potential to impact negatively on,

- flood risk on the site and in the wider area,
- outcomes of the Camac flood alleviation study,
- the hydro morphology of the Camac and future potential for restoration and attainment of good water quality
- being contrary to the recommendations of the Justification Test for Development plan carried out as part of the strategic Flood risk assessment for the area.

Policy SI14 of the City Development Plan 2022-2028 requires implementation and full compliance with the SFRA prepared as part of the Dublin City Development Plan. The City Development Plan states that Camac River is the subject of numerous ongoing studies at present including The Camac River Flood Alleviation Study commissioned by Dublin City Council and South Dublin County Council in partnership with The Office of Public Works (OPW).

The plan-making Justification Test (SFRA) concludes that in the area of Lower Camac, (development location), new development in Flood Zone A should be avoided and only less vulnerable development is appropriate in previously developed parts of Flood Zone B. (see Appendix B of the SFRA Development Plan - Area Assessment and Justification Test Tables for Area: 17. Lower Camac: South Circular Road to Liffey Estuary and SDRA 7).

I note the grounds of appeal address the issue of flooding based on the following 2 core points.

- Proposed floor levels are to be above the 1%AEP level.
- The quantitative capacity of the flood plain will be improved by the proposal through provision of flood attenuation within the design.

The proposal states that positioning of the lowest apartment floor levels above the 100 year return flood (1% AEP), and the proposed bridge above the 1000 year return flood (0.1% AEP) removes the development from a vulnerable classification and renders it not vulnerable. The design retains a means of escape from the southern block to the higher northern block during a less than 0.1%AEP flood event.

An undercroft/void below the apartment blocks, is proposed for the purpose of retaining the volumetric functions of a flood plain in order to avoid off site impacts. The proposal suggests that the final extent and detailing of this storage capacity would be agreed prior to construction.

The appeal contends that, by virtue of the urban location and site context the site is unsuitable for nature-based solutions and/or green infrastructure. This contention pre-empts, and in the event of approval undermines and precludes implementation of the conclusions of *The Camac River Flood Alleviation Study* including the incorporation of a setback from the Camac as required by Development Plan policy SI11.

I have examined the modelled CFRAMS maps and the Development Plan Flood Risk Assessment mapping. The footprint of the Irish Cone and Wafer Factory main building as modelled remains above floodwaters in the 1%AEP but is inundated in the 0.1%AEP (survey FFL 8.55 to 8.82 AOD). The remainder of the southern parcel is inundated in both modelled scenarios. The modelled flood risk extends beyond the boundary to all sides of the southern parcel. In a flood event water would extend from and recede to the river across the site to and from adjacent property including on Shannon Terrace and Old Kilmainham Road. The application states that unobstructed flows from the attenuation substructure are to be provided via louvered openings to the north and south sides of the block. No further details or assessments are provided of this aspect of the proposed flood mitigation or of any associated

residual risks and/or how the north south orientated side walls, perpendicular to the primary flow might act to obstruct or divert flows during flood events.

Although possibly of little consequence from a floodwater volumetric perspective an assessment of the impact of works proposed to natural northern bank, has not been presented in the proposal.

The Site Specific Flood Risk Assessment (SFFRA) submitted with the application states that Stage 3: Detailed Flood Risk Assessment is not required by virtue of the design measures proposed to mitigate the flood risk in the proposal. The SSFRA interprets flood Zones as a 3-dimensional designation at stage 2 assessment as opposed to a 2D mapped categorisation of risk which triggers detailed analysis and justification then at that stage taking account of the modelled flood depth. The approach presented in the application finds that the proposal is not a vulnerable type of development and not in Flood Zone A or B as it is proposed to be built at a level above a modelled flood depth. Although there is an obvious logic to this approach it is inconsistent with my reading of the Planning System and Flood Risk Management Guidelines for Planning Authorities. The operation of flood risk justification tests as proposed in the application avoids detailed consideration, modelling, site specific design, justification, testing of mitigation measures and residual impacts.

In addition to my concerns regarding the “screening out” of a requirement for detailed design in relation to flood mitigation, I also have concerns regarding the method used for calculation of the 1%AEP which are then used to determine the proposed FFL's.

As noted above modelling undertaken for CFRAM indicated that the existing factory floor at 8.55m to 8.82m AOD (levels from application survey) is above the 1%AEP flood depths. The application SSFRA by extrapolation of upstream and downstream modelling data derives a 1%AEP flood level for the site at between 9.5 and 10.18 AOD, significantly above the factory floor level to which a 300mm freeboard is added to determine the proposed FFL which in turn results in design constraints for the subject site with potential implications for the future development of adjacent sites. See consideration of the elevation onto Shannon Terrace set out in section 8.1.7 above. I cannot determine conclusively from the submitted SSFRA if in the final

determination of FFL that a specific allowance has been factored in for climate change.

Limited details are provided regarding the proposed flood storage design or capacity. The grounds of appeal suggest that final details could be agreed with the Planning Authority post consent. Whilst flood storage volumes within the footprint of the site may be maintained or increased, the potential for changes to other critical mechanisms are not addressed including, flood flow paths, dispersal post peak, resilience of the existing/new river bank and water quality impacts of the proposal relative to other methods of attenuation.

The site is currently the subject of a more comprehensive assessment of the catchment than that utilised for CFRAMS. The Camac Flood Alleviation Scheme looks at individual flood cells for possible local flood management measures with the intention of providing a more detailed analysis and flood risk in the wider context. This has the potential to impact on flood relief measures, compensatory storage and finished floor levels associated with the proposed development of the site. This may in turn result in direct and indirect impacts on the subject site and adjoining lands. In this respect, the development is premature pending the outcome of the Camac River Flood Alleviation Scheme.

Therefore, having regard to the location of the site in Flood Zone A, and in the absence of the completed Camac River Flood Alleviation Scheme I am not satisfied that the flood mitigation proposed is appropriate.

The flood mitigation proposed has implications for the design of the subject and development potentially for the design of development on adjacent sites and the wider area. I agree with the planning authority that the development is premature pending completion of the Camac River Flood Alleviation Scheme.

I would refer An Coimisiún to recent planning history of the area, which include recent refusals for comparable development on the basis of flood risk and prematurity in light of the flood risk alleviation scheme (ABP-306814 and ABP-309738).

In addition to the general intent of protection of water courses in policies SI7, SI8 of the City Development Plan, policy SI11 specifically addresses the Camac river and is relevant to the consideration of flooding and drainage aspects of the proposal. SI11

makes it policy to manage development on the subject site in a way that it enhances the ecological functioning of the Camac and aligns with the principles of river restoration. The policy also states that all development shall provide for a minimum set back distance of 10-25m from the top of the river bank, depending on site characteristics. A third part of this policy applies to sites of over 0.5Ha and is therefore inapplicable to the subject proposal.

The policy 'to manage' in this instance is taken to apply to the proposer and any consenting authority such as An Coimisiún in the exercise of development management.

Enhancement of ecological functioning although not directly attributable to net biodiversity gain, I consider a reasonable analogue which has the benefit of a defined methodology albeit from outside of the jurisdiction. I consider ecological enhancement to be aligned with the principles of river restoration and to relate to the protection and enhancement of water quality and hydromorphology towards naturally functioning watercourses inclusive of, banks as well as lower and upper riparian zones.

By the removal of natural and naturalised riverbanks along with all vegetation and the replacement with hard surfaces and engineered drainage solutions the proposal undermines the existing ecological functioning and runs contrary to the principles of river restoration.

SI11 sets out 10-25m as a minimum setback for development from the top of the riverbank. Consideration could be given to the term development, the precise location of the top of the river bank and the use of minimum distance with a range provided, in this instance they are all moot points as the proposed blocks are at a distance of less than 10m from the centre line of the river and hard surfacing extends up to (and over) the river.

By reason of set back distances between the river and the development being negligible, falling significantly below the lowest prescribed extent provided for with no provision for enhancement of ecology, the proposed development if consented would contravene materially Policy SI11 of the Dublin City Development Plan 2022-2028.

The appellant in consideration of flood risk states that the site is subject to a vacant site levy and is therefore suitable for development. This is a case without merit as

only the northern (elevated) Kilmainham Lane portion of the site is subject to the vacant site levy and this portion is not subject to an identified flood risk.

I note that engineering drawing Detail STD-WW-20 BELOW GROUND DRAINAGE DETAILS SHEET 2 (dwg. no 0551) details an emergency overflow to the Camac which is accompanied by a note regarding backfilling and reinstatement of river bed and bank. Beyond this note on a standard engineering details drawing, details have not been provided for or assessments of any such works.

In conclusion having carefully reviewed the matter of flood risk, I agree with the Planning Authority that the development as presented fails to meet the criteria of the justification test, is contrary to the policy of the Development Plan and if permitted would risk pre-empting/ prejudicing the outcomes of the Camac Flood Alleviation Scheme currently at an advanced stage of preparation.

8.6 Material Contravention

An Coimisiún is advised that in consideration of material contravention all of the Development Plan is of relevance and a material contravention can relate to general background text and development management standards, not just policies and objectives of the plan. However, in the course of applying planning judgement to the issue I have not tested each aspect the proposed development against each aspect of the Dublin City Development Plan.

Where An Coimisiún are minded to grant permission for the subject development and form the opinion that a grant of permission would result in a contravention of the development plan that is material Section 37(2)(a) of the Planning and Development Act 2000 as amended refers. As the refusal of permission in this case did not specifically reference a material contravention An Coimisiún may not have to justify a grant of permission in accordance with one of the four provisions set out in subsection 2(b). Nevertheless, in that event it would be considered good practice and in line with administrative law to provide an explanation for the grant in material contravention of the relevant provision.

In the event of permission being granted for the subject proposal the following are potential contraventions of the Dublin City Development Plan which would arise that I consider to be material.

8.6.1 Density

Table 1 of Appendix 3 of the City Development Plan states as a general rule net density range of 100-250 will be supported with a presumption against schemes anywhere in the city above 300 uph. As the proposed density is significantly higher than the prevailing context the application of performance criteria set out in table 3 of Appendix 3 is set out above.

The proposal contravenes the City Development Plan by proposing a density of a magnitude which is material when measured against the ranges in Table 1 and qualitatively when measured against the performance criteria in Table 3 both in Appendix 3.

8.6.2 Height

By virtue of the height and design of the proposal it would if permitted have a negative impact on the character of the area including the skyline, fails to have regard to the performance criteria of appendix 3 and would therefore materially contravene Policy SC17 which seeks to protect the character of the area.

8.6.3 Demolition of No.6 Kilmainham Lane

Demolition of No. 6, if permitted would represent a material contravention of the intent of conservation areas as well as of policy BAH6, BAH09 and policy BAH11 (subsection a) of the CDP which sets out a presumption against demolition in the absence of an assessment and justification. No such assessment or justification has been submitted.

8.6.4 Flooding and riparian set back

A Site Specific Flood Risk Assessment (SSFRA), not in full compliance with DCC Strategic Flood Risk Assessment (SFRA) was submitted with the application. In the event of permission being granted it would be in material contravention of Policy SI14 and SI15.

By reason of set back distances between the river and the development being below the lowest prescribed extent provided for and with no provision for enhancement of ecology the proposed development, if consented the proposal would materially

contravene Policy SI11, GI15 and GI29 of the Dublin City Development Plan 2022-2028.

8.6.5 Other references to Material contravention.

No party to the appeal or to the application, has referenced a material contravention of the Development Plan. However, the term *material planning grounds* followed by a list of policies and objectives is included in an objection to the DCC consideration of the proposal. Another objector states that the proposal contravenes policies listed in that objection. Policies and objectives referenced in this way which I consider merit further consideration in the context of material contravention are as follows:

- **QHSN21:** Ensure development respects the existing character, height, scale and density of its surroundings.
- **SC25:** Promote the highest standards in residential development, avoiding overdevelopment and ensuring compatibility with surrounding context.
- **CHC1** and **CHC4:** Protect and promote the city's industrial heritage and its contribution to local identity.

As set out in this report the proposed development fails to meet the standard of design aspired to in these policies. Taking account of the aspirational nature of these policies and objectives I do not consider that the failure of the proposal to meet the aspiration is appropriately described as a Material Contravention.

- **EE15:** Retain and support existing employment-generating uses, especially within mixed-use urban areas.

The site is zoned for residential development. The change of use is therefore provided for in policy. I do not consider the proposal if permitted would materially contravene the development plan on this basis.

- **SI20:** Protect watercourses and maintain a buffer zone free from development. (this is a mis reference in the submission)
- **GI5:** Safeguard green and blue infrastructure, and promote biodiversity along water corridors.

Concerns set out in the submission which quote these policies are addressed in section 8.5 above.

Section 15.7.1 of the City Development Plan: Where demolition is proposed, the applicant must submit a demolition justification report to set out the rationale for the demolition having regard to the 'embodied carbon' of existing structures and demonstrate that all options other than demolition, such as refurbishment, extension or retrofitting are not possible; as well as the additional use of resources and energy arising from new construction relative to the reuse of existing structures.

No such rationale in a specific report or otherwise has been submitted. However taking account of the scale and nature of the structures which it is proposed to demolish, along with the broader policy objectives of the Development Plan an otherwise acceptable proposal would be justifiable having regard to the embodied carbon.

For the reasons set out above I consider that issues raised by third parties do not constitute matters of material contravention of the Development Plan.

8.7 Other matters

8.7.1 Procedural

The appellant contends that they were denied an opportunity to submit further information including on daylight and sunlight.

The application was assessed and determined on the material submitted in accordance with the statutory provisions. The Development Management Guidelines issued under Section 28 of the Planning and Development Act 2000 as amended clearly state that further information should not be sought where there is a fundamental objection to the proposal on other grounds.

Additional material/consideration regarding daylight and sunlight submitted in support of the appeal extend to a statement that, as the daylight and sunlight report was not submitted there is no information to support a conclusion of inadequacy.

Guidance issued under section 28 as set out above state that where a proposal may not be able to fully meet all the requirements of the various daylight provisions, this must be clearly identified and presented by the applicant with a rationale for any

alternative, compensatory design solutions allowing the Planning Authority/An Coimisiún to reach an informed and reasoned conclusion balancing competing interests. No daylight study, justification or rationale for reduced standards was presented with the application or with the grounds of appeal. Furthermore, I consider there to be no ground of merit in the appeal relating to the applicant being denied an opportunity to respond to FI.

8.7.2 Impact on trees, bats and biodiversity

An Ecological impact assessment, Bat Impact Assessment and arboricultural impact assessment reports were submitted with the application.

The grounds of appeal highlight and dispute the concern of the DCC planning report that removal of the trees could impact negatively on visual amenity, flooding and ecology.

The appeal counters the contention with the statement that the felling of the trees is necessary for the construction of the proposal and references details of categorisation of the trees in the arboricultural impact assessment report. There is also a suggestion that compensatory planting is proposed.

The recommendation of the arboricultural impact assessment is to fell all trees on the site for the reason of site safety or to facilitate works. The categorisation of value in the submitted assessment takes no account of ecological or landscape value or of ecosystem services to which a stand of naturalised trees on an urban riparian zone may contribute. No reference is made or account taken of policy GI41 and objective GIO42 which seek to protect trees and groups of trees.

The application included an ecological impact assessment report. It is important to note at the outset that the report states that Ecological features valued at Local Importance are not considered significant and were scoped out of the assessment.

European and National policy and legislation was considered in the report but not that of the City Development Plan. No reference is made to any of the Green Infrastructure provisions of that plan including GI16 which requires support for local biodiversity and biodiversity net gain or of policy SI11 which specifically relates to enhancement of the ecological functioning of the subject site. No reference is made to the Camac Flood Alleviation Scheme, or article 10 of the habitats directive

regarding the connectivity and potential 'stepping stones' function of the site in biodiversity protection.

The submitted ecological impact assessment report provides inadequate information to inform a determination of compliance with Development Plan policy or to assign a realistic ecological value to the existing site condition. The photographic record presented in the report is of negligible value in consideration of ecological value. However, figure 5.6 presents an opportunity to further consider the architectural heritage of Kilmainham Lane.

The ecological report contains a set of standardised mitigation measures for invasive species control, construction adjacent to water and otherwise and concludes that with application of mitigation the development (removing all trees, vegetation and soil from the site) is not foreseen to give rise to any significant adverse effects on any designated European sites, nationally designated sites, or local habitats.

A bat survey report was submitted in support of the application, significant bat foraging activity along the river treelines and woodland was recorded on both sides of the river and suitable roost sites in both trees and manmade structures were recorded. However, no signs of roosting were recorded during the survey. The report states that there is a low risk of impact to the bat species on site as a result of the removal of all structures and vegetation. Mitigation measures are provided which the report states will reduce the overall impact on bats to Negligible-low level.

Having reviewed the submitted reports I consider the assessment and analysis to be inadequate to reach informed conclusions regarding the biodiversity or landscape value of the naturalised vegetation including trees on the site.

9 AA Screening

See Appendix 2 of this report.

Screening Determination

Finding of no likely significant effects

In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of the information considered in this AA screening, I conclude that the proposed development individually or in combination with other plans or projects would not be likely to give rise to significant effects on 000206 SAC

North Dublin Bay SAC, 000210 SAC South Dublin Bay SAC, 004006 SPA North Bull Island SPA, 004024 SPA South Dublin Bay and River Tolka Estuary SPA, 004236 SPA North-west Irish Sea SPA, 000199 SAC Baldoyle Bay SAC, 004016 SPA Baldoyle Bay SPA, 000202 SAC Howth Head SAC or 003000 SAC Rockabill to Dalkey Island SAC in view of the conservation objectives of these sites and is therefore excluded from further consideration. Appropriate Assessment is not required.

This determination is based on:

- The Nature and scale of the proposed development works
- The location of the site and separation from downstream European sites, and the likely dilution effects arising in the intervening waters.

10 Water Framework Directive WFD

See Appendix 3 of this report.

The proposal incorporates, is directly related, and is connected to a water body and is therefore screened in for WFD assessment.

Reference is made in the proposal to precast concrete sections for river wall.

Reference is also made on an engineering standard detail drawing to the reinstatement of riverbed and bank. There are a number of surface water outfalls from the development to the river. No details or justification for the absence of setbacks, headwall, scour protection or other measures have been provided as part of the application.

I consider each of the above impacts to the water body to be central to the planning assessment including in consideration of the objectives of the WFD. Notwithstanding deficiencies in the proposal regarding the interface and relationship with the river, in the event of a grant of permission, it may possible that these deficiencies could be addressed by means of a Water Status Impact Assessment (WSIA) and mitigation measures derived therefrom.

Where An Coimisiún are minded to grant permission, a WSIA could be requested. However, any such assessment, as is the case with the Site Specific Flood Risk

Assessment would risk pre-empting /prejudicing the outcomes of the Camac River Flood Alleviation Scheme which is reported be at an advanced stage of preparation.

11 Recommendation

That permission be refused for the reasons and considerations set out below.

12 Reasons and Considerations

1. Having regard to the location of a significant portion of the site in an identified Flood Zone, pending the outcome of the Camac River Flood Alleviation Scheme, An Coimisiún is not satisfied, on the basis of the information lodged with the planning application and the appeal, that the development appropriately mitigates the risk of flooding on the site in accordance with the recommendations of the Strategic Flood Risk Assessment, and the provisions of the 'Planning System and Flood Risk Management - Guidelines for Planning Authorities' (2009). The proposal if permitted would therefore contravene Policy SI14 and SI15 of the Dublin City Development Plan 2022-2028. An Coimisiún are not satisfied that the development would not give rise to a heightened risk of flooding either on the proposed development site itself, or on other lands.
2. Having regard to the height, scale and density of development, it is considered that the proposal would constitute overdevelopment of the site, including an exceedance of the indicative density range for the site, would have an unreasonable overbearing and visually dominant effect on adjoining sites, would seriously injure the amenity of existing residents of the area by way of undue overlooking and overshadowing impacts. The development also fails to provide an adequate standard of communal and public open space for future residents. For those reasons the development proposed would contravene the Dublin City Development Plan 2022-2028 by failing to have regard to the performance criteria set out in table 3 of Appendix 3 as well as the Z1 zoning objective which seeks *to protect, provide and improve residential amenities* and would therefore be contrary to the proper planning and sustainable development of the area.

3. The proposed development by reason of height, scale, urban grain and design along with demolition of No.6 Kilmainham Lane fails to integrate with the historic streetscape and public domain in the receiving environment, including the designated conservation area, Kilmainham Lane, the Royal Hospital Kilmainham a protected structure, Shannon Terrace and the Old Kilmainham Road and as a result, would seriously injure the visual amenity and would have an adverse impact on the character of the area. The proposal if permitted would contravene Policy and Objectives, QHSN21, BAH6, BHA9, BAH11(a), SC17, SC25, and Section 15.5.2 of the Dublin City Development Plan 2022-2028. For that reason and by the precedent it would set for other development the proposal is contrary to the proper planning and sustainable development of the area.
4. Having regard to the form and layout of development and the relationship with the Camac River, including the extent of set back distance from the river bank, and absence of ecological enhancement the proposed development if consented would contravene Policies SI11, GI5 and GI29, of the Dublin City Development Plan 2022-2028.

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.

Hugh O'Neill

Planning Inspector

18 December 2025

Appendix 1 - EIA Pre-Screening

Case Reference	ACP-323444-25
Proposed Development Summary	Demolition of a dwelling, two sheds and the Irish Cone and Wafer Factory and construction of 65. no. apartments and works to the banks of and new bridge over the Camac River (IE_EA_09C020500) which has an overall Water Framework Directive (WFD) status (2019-2024) of 'Poor' is at risk' of failing to meet its WFD objectives by 2027 and is part of the 09 Liffey and Dublin Bay catchment. See more detailed development description in the report above.
Development Address	Site north and south of and including the Camac River, that includes No. 6 Kilmainham Lane, adjacent lands and the former Irish Cone and Wafer factory, Kilmainham, Dublin 8
	In all cases check box /or leave blank
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?	<input checked="" type="checkbox"/> Yes, it is a 'Project'. Proceed to Q2. <input type="checkbox"/> No, No further action required.
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
<input checked="" type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3	
3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?	
<input checked="" type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold. Schedule 7A information submitted proceed to Q4. (Form 3 Required)	Class 10 (b)(i) Construction of more than 500 dwelling units. Class 10 (b) (iv) Urban development which would involve an area greater than 2 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.
4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?	
Yes <input checked="" type="checkbox"/>	Screening Determination required (Complete Form 3)

Inspector: _____ Date: _____

Form 3 - EIA Screening Determination Sample Form

A. CASE DETAILS		
An Coimisiún Pleanála Case Reference	ACP-323444-25	
Development Summary	Demolition of a dwelling, two sheds and the Irish Cone and Wafer Factory and construction of 65. no. apartments and works to the banks of and new bridge over the Camac River (IE_EA_09C020500) which has an overall Water Framework Directive (WFD) status (2019-2024) of 'Poor' is at risk' of failing to meet its WFD objectives by 2027 and is part of the 09 Liffey and Dublin Bay catchment. See more detailed development description in the report above.	
	Yes / No / N/A	Comment (if relevant)
1. Was a Screening Determination carried out by the PA?	Yes	Within body of planning report
2. Has Schedule 7A information been submitted?	Yes	Not under a specific heading but part of a screening report
3. Has an AA screening report or NIS been submitted?	Yes	AA Screening
4. Is a IED/ IPC or Waste Licence (or review of licence) required from the EPA? If YES has the EPA commented on the need for an EIAR?	No	

<p>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</p>	<p>No</p>	<p>SSFRA Drainage and Water Services Report Energy & Sustainability / Climate Action Report Resource and Waste Management Plan Operational Waste Management Planning Bat Survey Report Arboricultural Report Ecological Impact Assessment</p>
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B. EXAMINATION	Yes/ No/ Uncertain	<p>Briefly describe the nature and extent and Mitigation Measures (where relevant)</p> <p>(having regard to the probability, magnitude (including population size affected), complexity, duration, frequency, intensity, and reversibility of impact)</p> <p>Mitigation measures –Where relevant specify features or measures proposed by the applicant to avoid or prevent a significant effect.</p>	<p>Is this likely to result in significant effects on the environment?</p> <p>Yes/ No/ Uncertain</p>
<p>This screening examination should be read with, and in light of, the rest of the Inspector's Report attached herewith</p>			
<p>1. Characteristics of proposed development (including demolition, construction, operation, or decommissioning)</p>			
<p>1.1 Is the project significantly different in character or scale to the existing surrounding or environment?</p>	<p>Yes</p>	<p>Design inconsistent with context. Nature of development is consistent with the surrounding pattern, notwithstanding identified design and context issues</p>	<p>No</p>
<p>1.2 Will construction, operation, decommissioning or demolition works cause physical changes to the locality (topography, land use, waterbodies)?</p>	<p>Yes</p>	<p>Excavation of northern portion of site up to 7m in depth with potential works to riverbank.</p>	<p>No</p>
<p>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?</p>	<p>Yes</p>	<p>This is a brownfield site and its residential use represents an efficient use of resources</p>	<p>No</p>

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?	No		
1.5 Will the project produce solid waste, release pollutants or any hazardous / toxic / noxious substances?	Yes	Standard construction waste will arise to be addressed through the submitted Environment Protection Plan and in accordance with the requirements of the permission. Invasive species have been identified on site and are to be managed in accordance with submitted details.	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?	Yes	Potential construction impacts obviated by standard construction management measures. The design of the operational surface water management system addresses such impacts.	No
1.7 Will the project cause noise and vibration or release of light, heat, energy or electromagnetic radiation?	Yes	Noise and vibration during construction to be mitigated in accordance with best practice refer to CEMP No significant operational emissions	No
1.8 Will there be any risks to human health, for example due to water contamination or air pollution?	No	Standard construction activities may give rise to minor dust and noise emissions but risk is not considered high. No significant operational emissions.	

1.9 Will there be any risk of major accidents that could affect human health or the environment?	Yes	Site forms part of the flood plain of the Camac river. In the event of a grant of permission issues relating to flooding would be addressed in an SSFRA in accordance with S.28 guidelines as part of a planning assessment.	No
1.10 Will the project affect the social environment (population, employment)	Yes	The development will provide additional housing within an inner urban area.	
1.11 Is the project part of a wider large scale change that could result in cumulative effects on the environment?	Yes	Increased density of residential development in the immediate and wider area addressed at SEA of spatial policy.	
2. Location of proposed development			
2.1 Is the proposed development located on, in, adjoining or have the potential to impact on any of the following: <ul style="list-style-type: none"> - European site (SAC/ SPA/ pSAC/ pSPA) - NHA/ pNHA - Designated Nature Reserve - Designated refuge for flora or fauna - Place, site or feature of ecological interest, the preservation/conservation/ protection of which is an objective of a development plan/ LAP/ draft plan or variation of a plan 	No	Given separation from sensitive sites, no significant effects are likely.	
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-	No	The site surveys and assessments undertaken did not identify any significant effects species of flora or fauna of interest. The ECIA identifies appropriate mitigation measures..	

wintering, or migration, be affected by the project?			
2.3 Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?	Yes	Site within City Archaeological designation, any impacts would be mitigated by standard archaeological conditions in the event of the grant of permission. Royal Hospital, RPS and conservation area could also be affected.	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?	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	Site forms part of the flood plain of the Camac River. in the event of a grant issues relating to flooding would be addressed in an SSFRA in accordance with S.28 guidelines as part of a planning assessment.	No
2.6 Is the location susceptible to subsidence, landslides or erosion?	No		
2.7 Are there any key transport routes (eg 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?	Yes	Bus connects route on Old Kilmainham road. Impacts would be mitigated by application of condition to any grant as requested by NTA.	No

2.8 Are there existing sensitive land uses or community facilities (such as hospitals, schools etc) which could be affected by the project?	No		
3. Any other factors that should be considered which could lead to environmental impacts			
3.1 Cumulative Effects: Could this project together with existing and/or approved development result in cumulative effects during the construction/ operation phase?	No	Within this city context significant cumulative effects are not considered likely.	
3.2 Transboundary Effects: Is the project likely to lead to transboundary effects?	No		
3.3 Are there any other relevant considerations?	No		
C. CONCLUSION			
No real likelihood of significant effects on the environment.	<input type="checkbox"/>	EIAR Not Required	
D. MAIN REASONS AND CONSIDERATIONS			
<p>Having regard to: -</p> <p>1. the criteria set out in Schedule 7, in particular (a) the limited nature and scale of the proposed housing development, in an urban area with established residential uses served by public infrastructure and which does not exceed the thresholds set out in Schedule 5 of the Planning and Development Regulations 2001, as amended;(b) The central location of the site on lands zoned for development in the DCC CDP 2022 and the and the results of the Strategic Environmental Assessment of the plan</p>			

(c) the location of the development outside of any sensitive location specified in article 109(4)(a) of the Planning and Development Regulations 2001 (as amended), and the absence of any likely significant effects thereon

2. the results of other relevant assessments of the effects on the environment submitted by the applicant including AA screening *under the Habitats Directive*.
3. The guidance set out in “Environmental Impact Assessment Guidelines for Consent Authorities regarding sub-threshold Development”, Dept of the Environment, Heritage and Local Government (2003), and
4. The features and measures proposed by applicant envisaged to avoid or prevent what might otherwise have been significant effects on the environment, and in particular the proposal to monitor for archaeological features during excavations and operation of best practice surface water controls.

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 is not required.

Inspector _____

Date _____

Approved (DP/ADP) _____

Date _____

Appendix 2 AA Screening Determination

Test for likely significant effects

Screening for Appropriate Assessment Test for likely significant effects	
Step 1: Description of the project and local site characteristics	
Brief description of project	Demolition of a dwelling, two sheds and the Irish Cone and Wafer Factory and construction of 65. no. apartments and works to the banks of and new bridge over the Camac River (IE_EA_09C020500) which has an overall Water Framework Directive (WFD) status (2019-2024) of 'Poor' is at risk' of failing to meet its WFD objectives by 2027 and is part of the 09 Liffey and Dublin Bay catchment. See more detailed development description in the report above.
Brief description of development site characteristics and potential impact mechanisms	The 2.462HA site spans the river Camac with a portion of the proposal to each bank, <ul style="list-style-type: none"> • significant excavation (7m deep) to the heavily vegetated northern bank, • demolition of residential and industrial buildings • possible construction of new river walls, • construction of new bridge • construction of 2 blocks of apartments up to 7 storeys • the proposed surface water system is designed to discharge to the Camac via engineered attenuation
Screening report	Y
Natura Impact Statement	N
Relevant submissions	None
Step 2. Identification of relevant European sites using the Source-pathway-receptor model	
Table 3.4 of the submitted screening report identifies what it considers to be relevant European Sites consisting of a list of all sites within a 15km radius of the site.	

I have not followed that approach, and have instead utilised a SPR precautionary approach and have identified a more targeted list as follows:

European Site (code)	Qualifying interests ¹ Link to conservation objectives (NPWS, date)	Approx. Distance from proposed development (km)	Ecological connections ²	Consider further in screening ³ Y/N
004024 SPA South Dublin Bay and River Tolka Estuary SPA	Light-bellied Brent Goose (Branta bernicla hrota) [A046] Oystercatcher (Haematopus ostralegus) [A130] Ringed Plover (Charadrius hiaticula) [A137] Grey Plover (Pluvialis squatarola) [A141] Knot (Calidris canutus) [A143] Sanderling (Calidris alba) [A144] Dunlin (Calidris alpina) [A149] Bar-tailed Godwit (Limosa lapponica) [A157] Redshank (Tringa totanus) [A162] Black-headed Gull (Chroicocephalus ridibundus) [A179] Roseate Tern (Sterna dougallii) [A192] Common Tern (Sterna hirundo) [A193] Arctic Tern (Sterna paradisaea) [A194] Wetland and Waterbirds [A999]	6	Indirect via water.	N
000210 SAC South Dublin Bay SAC 22 Aug 2013	Mudflats and sandflats not covered by seawater at low tide [1140] Annual vegetation of drift lines [1210] Salicornia and other annuals colonising mud and sand [1310] Embryonic shifting dunes [2110]	6	Indirect via water.	N
004006 SPA North Bull Island SPA	Light-bellied Brent Goose (Branta bernicla hrota) [A046] Shelduck (Tadorna tadorna) [A048] Teal (Anas crecca) [A052] Pintail (Anas acuta) [A054]	6	Indirect via water..	N

	<p>Oystercatcher (<i>Haematopus ostralegus</i>) [A130] Golden Plover (<i>Pluvialis apricaria</i>) [A140] Grey Plover (<i>Pluvialis squatarola</i>) [A141] Knot (<i>Calidris canutus</i>) [A143] Sanderling (<i>Calidris alba</i>) [A144] Dunlin (<i>Calidris alpina</i>) [A149] Black-tailed Godwit (<i>Limosa limosa</i>) [A156] Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] Curlew (<i>Numenius arquata</i>) [A160] Redshank (<i>Tringa totanus</i>) [A162] Turnstone (<i>Arenaria interpres</i>) [A169] Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179] Shoveler (<i>Spatula clypeata</i>) [A857] Wetland and Waterbirds [A999]</p>			
<p>000206 SAC North Dublin Bay SAC 06 Nov 2013</p>	<p>Mudflats and sandflats not covered by seawater at low tide [1140] Annual vegetation of drift lines [1210] Salicornia and other annuals colonising mud and sand [1310] Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>) [1330] Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410] Embryonic shifting dunes [2110] Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120] Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130] Humid dune slacks [2190] <i>Petalophyllum ralfsii</i> (Petalwort) [1395]</p>	8	Indirect via water	N
<p>004236 SPA North-west Irish Sea SPA</p>	<p>Red-throated Diver (<i>Gavia stellata</i>) [A001] Great Northern Diver (<i>Gavia immer</i>) [A003]</p>	10km	Indirect via water	N

	<p>Fulmar (<i>Fulmarus glacialis</i>) [A009] Manx Shearwater (<i>Puffinus puffinus</i>) [A013] Cormorant (<i>Phalacrocorax carbo</i>) [A017] Shag (<i>Phalacrocorax aristotelis</i>) [A018] Common Scoter (<i>Melanitta nigra</i>) [A065] Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179] Common Gull (<i>Larus canus</i>) [A182] Lesser Black-backed Gull (<i>Larus fuscus</i>) [A183] Herring Gull (<i>Larus argentatus</i>) [A184] Great Black-backed Gull (<i>Larus marinus</i>) [A187] Kittiwake (<i>Rissa tridactyla</i>) [A188] Roseate Tern (<i>Sterna dougallii</i>) [A192] Common Tern (<i>Sterna hirundo</i>) [A193] Arctic Tern (<i>Sterna paradisaea</i>) [A194] Guillemot (<i>Uria aalge</i>) [A199] Razorbill (<i>Alca torda</i>) [A200] Puffin (<i>Fratercula arctica</i>) [A204] Little Gull (<i>Hydrocoloeus minutus</i>) [A862] Little Tern (<i>Sternula albifrons</i>) [A885]</p>			
000199 SAC Baldoye Bay SAC	<p>Mudflats and sandflats not covered by seawater at low tide [1140] Salicornia and other annuals colonising mud and sand [1310] Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>) [1330] Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</p>	13	Indirect via water..	N
004016 SPA Baldoye Bay SPA	<p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046] Shelduck (<i>Tadorna tadorna</i>) [A048] Ringed Plover (<i>Charadrius hiaticula</i>) [A137]</p>	13	Indirect via water. .	N

	Golden Plover (Pluvialis apricaria) [A140] Grey Plover (Pluvialis squatarola) [A141] Bar-tailed Godwit (Limosa lapponica) [A157] Wetland and Waterbirds [A999]			
000202 SAC Howth Head SAC	Vegetated sea cliffs of the Atlantic and Baltic coasts [1230] European dry heaths [4030]	13	Indirect via water	N
003000 SAC Rockabill to Dalkey Island SAC	Reefs [1170] Phocoena phocoena (Harbour Porpoise) [1351]	14	Indirect via water	N

Step 3 unnecessary

Further Commentary / discussion

In the event that the pollution control and surface water treatment measures were not implemented or failed, I remain satisfied that the potential for likely significant effects on the qualifying interests of Natura 2000 sites in Dublin Bay can be excluded given the distant and interrupted hydrological connection, the nature and scale of the development and the distance and volume of water separating the application site from Natura 2000 sites in Dublin Bay (dilution factor). I conclude that the risk to water quality in both construction and operational phases does not have potential for a significant impact on the conservation objectives of the Natura Sites set out above.

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

I conclude that the proposed development individually or in combination with other plans or projects would not result in likely significant effects on 000206 SAC North Dublin Bay SAC, 000210 SAC South Dublin Bay SAC, 004006 SPA North Bull Island SPA, 004024 SPA South Dublin Bay and River Tolka Estuary SPA, 004236 SPA North-west Irish Sea SPA, 000199 SAC Baldoyle Bay SAC, 004016 SPA Baldoyle Bay SPA, 000202 SAC Howth Head SAC or 003000 SAC Rockabill to Dalkey Island SAC. The proposed development would have no likely significant effect in combination with other plans and projects on any European site(s). No further assessment is required for the project].

No mitigation measures are required to come to these conclusions.

Screening Determination

Finding of no likely significant effects

In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of the information considered in this AA screening, I conclude that the proposed development if permitted individually or in combination with other plans or projects would not be likely to give rise to significant effects on 000206 SAC North Dublin Bay SAC, 000210 SAC South Dublin Bay SAC, 004006 SPA North Bull Island SPA, 004024 SPA South Dublin Bay and River Tolka Estuary SPA, 004236 SPA North-west Irish Sea SPA, 000199 SAC Baldoyle Bay SAC, 004016 SPA Baldoyle Bay SPA, 000202 SAC Howth Head SAC or 003000 SAC Rockabill to Dalkey Island SAC in view of the conservation objectives of these sites and is therefore excluded from further consideration. Appropriate Assessment is not required.

This determination is based on:

- The Nature of works,
- The location of the site,
- The distance from nearest European site and lack of functional connections.

Appendix 3 Water Framework Directive

WFD IMPACT ASSESSMENT STAGE 1: SCREENING						
Step 1: Nature of the Project, the Site and Locality						
An Bord Pleanála ref. no.	323444		Townland, address		Site north and south of and including the Camac River, that includes No. 6 Kilmainham Lane and adjacent lands and the former Irish Cone and Wafer factory, Kilmainham, Dublin 8	
Description of project			Demolition of a dwelling, two sheds and the Irish Cone and Wafer Factory and construction of 65. no. apartments and works to the banks of and new bridge over the Camac River (IE_EA_09C020500) which has an overall Water Framework Directive (WFD) status (2019-2024) of 'Poor' is at risk' of failing to meet its WFD objectives by 2027 and is part of the 09 Liffey and Dublin Bay catchment. See more detailed development description in the report above.			
Brief site description, relevant to WFD Screening,			The 2.462HA site spans the river Camac with a portion of the proposal to each bank, significant excavation (7m deep) to the heavily vegetated northern bank, demolition of residential and industrial buildings construction of new river wall, construction of new bridge construction of 2 blocks of apartments up to 7 storeys the proposed surface water system is designed to discharge to the Camac			
Proposed surface water details			discharge to the Camac following attenuation in green and blue roofs.			
Proposed water supply source & available capacity			Uisce Eireann			
Proposed wastewater treatment system & available capacity, other issues			Uisce Eireann			
Step 2: Identification of relevant water bodies and Step 3: S-P-R connection						
Identified water body	Distance to (m)	Water body name(s) (code)	WFD Status	Risk of not achieving	Identified pressures on that water body	Pathway linkage to water feature

				WFD Objective e.g.at risk, review, not at risk		(e.g. surface run-off, drainage, groundwater)	
River Waterbody	0	Camac River (IE_EA_09C020500)	Poor	At risk	Hydromorphology Urban Run-off Urban Waste Water	Directly hydrologically connected to surface watercourse.	
Groundwater waterbody	Underlying site	IE_EA_G_008	Good	Not at risk	No pressures	Free draining soil conditions.	
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	Water body receptor (EPA Code)	Pathway (existing and new)	Potential for impact/ what is the possible impact	Screening Stage Mitigation Measure*	Residual Risk (yes/no) Detail	Determination** to proceed to Stage 2. Is there a risk to the water environment? (if 'screened' in or 'uncertain' proceed to Stage 2.

1.	Surface water during construction	Camac River (IE_EA_09C020500)	Run off from site during construction	Suspended solids and/or other pollutants Significant	Standard and best practice surface water controls	Yes	Screened in
2.	Removal and replacement of natural river bank and flood plain	Camac River (IE_EA_09C020500)	Removal of natural/naturalised vegetation	Further reduction in ecological function	None	Yes	Screened in
3.	Ground	IE_EA_G_008	Pollutants draining to ground waters	Hydrocarbon or other Spillages, excavation into the water table.	Standard Construction Measures / Conditions	No	Screened out
OPERATIONAL PHASE							
4.	Surface water during operation	Camac River (IE_EA_09C020500)	Run off from the development during operation	Significant	Standard and best practice surface water controls	Yes	Screened in.
5.	Loss of river back and operation of engineered	Camac River (IE_EA_09C020500)	Loss of natural functioning flood plain.				

	flood attenuation.						
6.	Ground	IE_EA_G_008	None	None	None	No	Screened out
DECOMMISSIONING PHASE							
5.	NA						
STAGE 2: ASSESSMENT							
Details of Mitigation Required to Comply with WFD Objectives – Template							
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:	
Development Activities Significant excavation adjacent to and construction of new river bank, bridge, construction and operation of surface water outfalls	Best practice surface water control measures for excavation and construction beside water courses by design would be required.	Best practice surface water control measures for excavation beside water courses and retention of naturally functioning flood plain.	Although heavily modified by virtue of its urban and channelised character the Camac has not been designated as such. However a return to good ecological status would be likely to involve improvements of water quality, control of runoff and reinstatement of natural banks not all of which feature as part of the subject proposal.	Although not specifically addressed the proposed surface and waste water systems replacing existing on the are likely to act towards greater control in this regard. As a brownfield site of longstanding industrial/commercial the potential for the existing and future disturbance of priority substances has not been addressed in the proposal and has not been assessed in the consideration of the grounds of appeal.	Unknown
Details of Mitigation Required to Comply with WFD Objectives – Template					
Groundwater					

Development/Activity e.g. abstraction, outfall, etc.	<u>Objective 1: Groundwater</u> Prevent or limit the input of pollutants into groundwater and to prevent the deterioration of the status of all bodies of groundwater	<u>Objective 2 :</u> <u>Groundwater</u> Protect, enhance and restore all bodies of groundwater, ensure a balance between abstraction and recharge, with the aim of achieving good status*	<u>Objective 3:Groundwater</u> Reverse any significant and sustained upward trend in the concentration of any pollutant resulting from the impact of human activity	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:	
Development Activities Significant excavation adjacent to and construction of new river bank, bridge, construction and operation of surface water outfalls	Best practice ground water protection particularly in the design of the excavation would be required. Although not specifically addressed the proposed surface and wastewater systems and significant excavation if consented would be likely to act towards greater control and protection. As a brownfield site of longstanding industrial/commercial the potential for the existing	It appears the proposal would result in diversion of a portion of existing groundwater recharge to surface water outfall. The extent of contribution in the existing scenario of ground to surface and vice versa is unknown and the impact of the proposal on this interface is not known. However, taking account of the	Unknown.	Unknown.

	and future disturbance of priority substances has not been addressed in the proposal and has not been assessed in the consideration of the grounds of appeal.	scale and context of the subject site I would not anticipate a significant impact in this regard.		
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