



An
Bord
Pleanála

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

Inspector's Report ABP-309098-21

Strategic Housing Development

Demolition of an existing house,
construction of 102 no. Build to Rent
apartments and associated site works.

Location

Lands at St Michael's Hospital Car
Park, Crofton Road, Dun Laoghaire,
Co. Dublin.
(www.stmichaelsshd.ie)

Planning Authority

Dun Laoghaire Rathdown County
Council

Applicant

Fitzwilliam DL Limited

Prescribed Bodies

Irish Water
An Taisce
Department of Tourism, Culture, Arts,
Gaeltacht, Sport and Media

Observer(s)

Adrian Fernandez Fontenla
Aisling Gorby
Alan Maher
Alison Blake
Anne Kinsella
Anthony and Geraldine Tyrell
Aoife Noonan
Bernie Chamberlaine
Catherine Nalty
Cathy and Patrick Hillery
Charlemont Residents Association c/o
Diarmuid O'Grada
Charles and Camilla Collins
Ciara Doran
Cristian Costache
Daniel and Mary Sheehan
Davnet Cotter – Save Our Seafront
Declan O'Regan
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Frank McDonald
Gillian and Richard Goodbody
Henning Ringholz
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Ivan Warner
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Michael Grehan
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Niamh McGowan
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Patricia Steward
Patrick and Lesley O'Mara
Patrick McGowan
Paul Collins
Peter Lynch
Peter Magee
Ricardo Bara
Richard Boyd Barrett
Robert and Kate Dobbyn
Robert Nowlan & Associates on behalf
of Crofton Building Management CLG
Rory Carroll
Sandeep Singh
Sean and Mary Dorgan
Stephanie Bourke c/o Conor Sheehan
Stephen Pike
Tal Yeshurun
The Hanley Family
Thomas Lubliner

Thomas Montgomery and Son
Solicitors on behalf of 6CT Core
Ventures Limited
Violetta and Mario Di Bucchianico
William Byrne

Date of Site Inspection

18th March 2021

Inspector

Elaine Power

1.0 Introduction

- 1.1. This is an assessment of a proposed strategic housing development submitted to the Board under section 4(1) of the Planning and Development (Housing) and Residential Tenancies Act 2016.

2.0 Site Location and Description

- 2.1. The subject site is located on the existing St. Michael's Hospital car park, Crofton Road in the centre of Dun Laoghaire. The site is bound to the north by Crofton Road, to the south by St. Michael's Hospital, to the east by Harbour View apartment development, to the west by residential dwellings on Charlemont Terrace (protected structures), Charlemont Mews and Charlemont Avenue (protected structures). On the opposite side of Crofton Road is Dun Laoghaire DART station and Dun Laoghaire Harbour.
- 2.2. The site is generally rectangular in shape and has a stated area of 0.328 ha. It currently accommodates a public surface car park associated with St. Michael's Hospital and a vacant 2-storey dwelling in the north east corner of the site. There are a limited number of small to medium sized trees and large shrubs on the grass verges between the car parking spaces. The site levels fall from south to north with a level difference of c. 3m between the northern and southern boundary. The site is open to the south with St. Michael's Hospital, the eastern and western boundaries generally comprise high stone walls. The boundary along Crofton Road comprises a blockwork wall with a low railing on top.
- 2.3. Access to the site is from Crofton Road and there is a right of way through the site to St. Michael's Hospital.

3.0 Proposed Strategic Housing Development

- 3.1. The proposed development comprises the demolition of an existing 2-storey vacant dwelling (c. 78sqm) and the construction of 102 no. Build to Rent apartments with associated private residential amenity space and a café unit. The development is provided in 2 no. Buildings (Building 01 and Building 02).

- 3.2. Building 01 fronts onto Crofton Road. It ranges in height from 5 – 13 storeys and accommodates 57 no. apartments (42 no. 1-beds and 15 no. 2-beds) above ground floor residential amenity space (363sqm) and a café (93sqm). The internal residential amenity space includes co-working / study space, a gym, a games room, lounge / kitchen area and a multi-purpose recreational space, reception, post room and waste storage.
- 3.3. Building 02 is located to the rear of Building 01 and is 9-storeys in height. It accommodates 45 no. apartments (38 no. 1-bed and 7 no. 2-beds) and ground floor residential amenity space (46sqm) comprising a bicycle repair station, waste storage and storage units.
- 3.4. Communal open space (765sqm) is provided within the scheme at ground floor level, between the 2 no. buildings and at roof top level at 6th, 9th, and 13th storey of Building 01 and at 9th floor level at Building 02. Public open space (681sqm) is proposed adjacent to the site boundary with Crofton Road and includes a pedestrian walkway along the site's eastern boundary.
- 3.5. The development includes a vehicular right of way to St. Michaels Hospital from Crofton Road along the western site boundary. The right of way also provides vehicular access to 3 no. car parking space and 2 no. motorcycle parking spaces located between the 2 no. buildings. 150 no. bicycle parking spaces are provided within the scheme.
- 3.6. The scheme includes an ESB substation, bin storage, services, drainage infrastructure, green roofs boundary treatments and all associated site and infrastructural works.
- 3.7. The application included the following:
- Statement of Response to An Bord Pleanála
 - Statement of Material Contravention
 - Statement of Consistency
 - Housing Quality Assessment
 - Design Appraisal

- Architectural Heritage Impact Assessment
- Archaeological Assessment
- Landscape and Visual Impact Assessment
- Design Rationale – Landscape Architecture
- Arboricultural Report
- Environmental Impact Assessment Screening Report
- Appropriate Assessment Screening Report
- Ecological Statement
- Sustainability Report
- Wind Microclimate Modelling
- Daylight and Sunlight Report
- Internal Daylight and Sunlight Report
- Engineering Report
- Flood Risk Assessment
- Construction Management Plan
- Construction Environmental Management Plan
- Building Life Cycle Report
- Build to Rent Operational Management Plan
- Building Services Mechanical and Electrical Report
- Waste Management
- Outline Operational Waste Management Plan
- Outline Travel Plan
- Quality Audit
- Stage 1 Surface Water Audit
- Site Investigation

4.0 Planning History

Subject Site

PL06D.226077, Reg. Ref D07A/1067: Permission was refused in 2008 for the demolition of a dwelling and the construction of 80 no. apartments and 2 no. retail

units in a 6-8 storey building over 2 no. basement levels of car parking. The 3 no. reasons for refusal are as follows: -

- 1. The site is located in a sensitive and prominent position on Crofton Road, in an area of diverse architectural styles, with Charlemount Terrace, a terrace of protected structures to the west of it. The proposed development, by reason of its scale, bulk, massing and, in particular, the projecting building line forward of Charlemount Terrace, would constitute an overly dominant and oppressive appearance on the streetscape and would, therefore, seriously injure the visual amenities of the area and be contrary to the proper planning and sustainable development of the area.*
- 2. Having regard to the existing use of the site for car parking, the parking needs of the proposed development and for other development in the area, it is considered that the proposed development, which entails the loss of an existing car park, would result in an under provision of car parking space in the area. The proposed development would, therefore, add to traffic congestion in the area, would seriously injure the amenities of property in the area and be contrary to the proper planning and sustainable development of the area.*
- 3. Having regard to the siting, design and layout of the proposed development and its relationship to adjoining properties, it is considered that the proposed development would result in overlooking and loss of privacy to adjoining properties and would seriously injure the amenities of property in the vicinity. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.*

Surrounding Sites

Strategic Housing Development Application ABP-304249-19: Permission was granted in 2019 for the demolition of existing buildings on site and the construction of 208 no. Build to Rent Shared Living Residential Development and a café / kiosk in a 4-6 storey building at Old School House, Eblana Avenue c. 130m south east of the subject site.

It is also noted that there are a number of planning applications relating to St. Michaels Hospital.

5.0 Section 5 Pre-Application Consultation

5.1. A Section 5 pre-application virtual consultation took place on the 8th of May 2020 in respect of a development to demolish and existing house and construct 102 Build to Rent apartments. Representatives of the prospective applicant, the planning authority and An Bord Pleanála were in attendance. The main topics discussed at the meeting were –

- Conservation Impact Assessment
- Justification for an increased height at this location
- Development Strategy for the site to include inter alia: Density; Urban Design; Connectivity and permeability; and Open Space.
- Impact on the existing Residential Amenity
- Impact on the Residential Amenity of future occupants including compliance with SPPR 7 and 8 of the Apartment Guidelines
- Traffic and Transport
- Drainage

Copies of the record of the meeting and the inspector's report are on this file.

5.2. In the Notice of Pre-Application Consultation Opinion dated 2nd June 2020 (ABP-306688-20) An Bord Pleanála stated that it was of the opinion that the documents submitted required further consideration and amendment in order to constitute a reasonable basis for an application for strategic housing development with regard to the following: -

1. Further consideration and/or justification of the documents as they relate to the impact of the proposed development on the character and setting of the features of conservation interest in the vicinity, in particular the treatment of building no. 1 adjoining the row of protected structures along Charlemont Terrace, having regard to the requirements of the criteria as set out in Section 6.4.15 and Appendix B of the Architectural Heritage Protection Guidelines for

Planning Authorities (2011) and any other relevant policies and objectives for the site relating to the built heritage.

2. Further consideration and/or justification of the documents as they relate to the treatment of the design and height of building no. 1, including justification for a higher building at this location relative to the surrounding area and compliance with the criteria based assessment in the Urban Development and Building Heights- Guidelines for Planning Authorities (2018) and the building height guidelines in the Dun Laoghaire Rathdown County Council 2016-2022.

5.3. The opinion also stated that the following specific information should be submitted with any application for permission.

- A Housing Quality Assessment
- Proposals for the management and operation of the proposed Build to Rent scheme
- Details of Part V provision
- A Daylight and Sunlight Analysis
- A report addressing the urban design rationale.
- A report and drawings detailing the design of the surface water management system.
- A proposed car parking strategy

5.4. A list of authorities that should be notified in the event of making an application were also advised to the applicant and included:

- Minister for Culture, Heritage, and the Gaeltacht
- The Heritage Council
- An Taisce
- The Arts Council
- Failte Ireland
- Irish Water
- Dun Laoghaire Rathdown County Childcare Committee
- Transport Infrastructure Ireland

5.5. ***Applicant's Statement***

A statement of response to the Pre-Application Consultation Opinion was submitted with the application, as provided for under section 8(1)(iv) of the Act of 2016. The applicant addressed the items that required consideration and specific information to be submitted with the application.

The Items that required further consideration are summarised below: -

Item 1: An Architectural Heritage Impact Assessment, a Landscape and Visual Impact Assessment and a Design Appraisal have been submitted in support of the development. It is stated that the proposed development has been subject to careful consideration and revision following the pre-application consultation. The amendments include the following: -

- A reduced height at the western part of Building 01 of c. 1.87m.
- Reduced floor to ceiling heights to 3m on the upper floors.
- Building 02 has been redesigned with the western edge omitted.
- Redesign of materials and finishes.

Item 2: A Design Appraisal, a Landscape and Visual Impact Assessment and the Statement of Material Contravention have been submitted in support of the development. Amendments to the scheme include reduced floor to ceiling heights, a revised footprint of Building 02 and the addition of rooftop amenity space and terrace at the eastern element of Building 01.

The applicant addressed items 1-7 of the specific information to be submitted with the application. Items of note are outlined below: -

Item 1: A Housing Quality Assessment has been submitted.

Item 2: Information indicating that the proposed scheme is in accordance with SPQR 7 of the Apartment Guidelines has been provided. Further information is provided within the Statement of Consistency, the Building Lifecycle Report, and the Build to Rent Operational Management Plan submitted in support of the development.

Item 3: The applicant has actively engaged with the planning authority with regard to Part V. It is proposed to provide 10 no. units for the purpose of social housing.

Item 4: A Daylight and Sunlight report, a Design Appraisal, the Statement of Consistency, and the Material Contravention Statement have been submitted in support of the scheme.

Item 5: A Design Appraisal and a Building Lifecycle report have been submitted.

Item 6: The applicants Statement of Response does not address item no. 6 which relates to surface water management system. It is noted that Engineering Planning Report, Flood Risk Assessment, and a Stage 1 Surface Water Audit have been submitted with the application.

Item 7: An Engineering Planning Report and Outline Travel Plan and the Build to Rent Operational Management Plan has been submitted in support of the car parking strategy.

6.0 Relevant Planning Policy

6.1. Dun Laoghaire Rathdown County Development Plan 2016-2022

The site is zoning MTC – Major Town Centre with the associated land use objective *‘to protect, provide for and / or improve major town centre facilities’*.

Chapter 2 of the Plan notes that the Council is required to deliver 30,800 units over the period 2014-2022. Figure 1.3 of the Plan indicates that there are approx. 410 ha of serviced land available which could yield 18,000 residential units.

Section 1.2.5 of the Plan states *‘in addition to the major parcels of zoned development land above, the ongoing incremental infill and densification of the existing urban area will generate, overtime and on a cumulative basis, relatively significant house numbers’*.

The following are considered of particular relevance: -

Policy UD6: Building Height Strategy: - It is Council policy to adhere to the recommendations and guidance set out within the Building Height Strategy for the County.

Objective SLO73: - To retain the existing hospital uses at St. Michaels and to develop and upgrade the Hospital and Boylan Centre sites in accordance with the objectives of the Dun Laoghaire Urban Framework Plan and the pending Dun Laoghaire and Environs Local Area Plan.

Policy RET4: Major Town Centres: It is Council policy to maintain the two Major Town Centres - Dún Laoghaire and Dundrum as the primary retail centres in the County. This will be reflected in the nature and scale of retail and services permitted in these centres and by the range of complementary leisure, entertainment and cultural facilities located there.

Section 8.2.3.3(iii) – Mix of Units requires that ‘larger schemes over 30 units should generally comprise of no more than 20% 1-bed units ...’

Table 8.2.5: Balconies / Winter Gardens: Minimum Private Open Space Standards requires 6sqm private open space for 1 bed apartments and 8sqm of private open space for 2-bed apartments.

Policy AR1: Record of Protected Structures It is Council policy to:

- i. Include those structures that are considered in the opinion of the Planning Authority to be of special architectural, historical, archaeological, artistic, cultural, scientific, technical or social interest in the Record of Protected Structures (RPS).
- ii. Protect structures included on the RPS from any works that would negatively impact their special character and appearance.
- iii. Ensure that any development proposals to Protected Structures, their curtilage and setting shall have regard to the Department of the Arts, Heritage and the Gaeltacht ‘Architectural Heritage Protection Guidelines for Planning Authorities’ (2011).
- iv. Ensure that new and adapted uses are compatible with the character and special interest of the Protected Structure.

Chapter 2: Sustainable Communities, Chapter 8: Principles of Development and Appendix 9: Building Height Strategy, Policy RES3: Residential Density, RES7: Overall Housing Mix, Policy RES8: Social Housing, Policy SIC11: Childcare Facilities, Policy UD1: Urban Design Principles, Policy UD2: Design Statements, Policy UD3: Public Realm Design, and Section 8.2.3: Residential Development are also considered relevant.

Appendix 12: Dun Laoghaire Urban Framework Plan:

Section 2.6 – The Hospital and Boylan Centre sets out indicative proposals for the subject site. The following is considered of particular relevance: -

- Any development on the Hospital lands and Boylan Centre should create a network of new streets and public spaces to foster an attractive living and working environment.
- Development fronting along new routes in this area should have a tight urban grain, variety in its architectural language and design and unit sizes that will encourage and promote a variety of uses and functions.
- Any development of the Hospital Lands must carefully address the scale and setting of Charlemont Terrace and the unique long-distance views and skyline of the Town Centre.

6.2. *Eastern and Midland Regional Assembly – Regional Spatial and Economic Strategy (RSES) 2019.*

The RSES is underpinned by key principles that reflect the three pillars of sustainability: Social, Environmental and Economic, and expressed in a manner which best reflects the challenges and opportunities of the Region. It is a key principle of the strategy to promote people's quality of life through the creation of healthy and attractive places to live, work, visit and study in.

The site is located within the 'Dublin Metropolitan Area'. The Metropolitan Area Strategic Plan (MASP), which is part of the RSES, seeks to focus on a number of large strategic sites, based on key corridors that will deliver significant development in an integrated and sustainable fashion. The following RPOs are of particular relevance:

RPO 5.4: Future development of strategic residential development areas within the Dublin Metropolitan Area shall provide for higher densities and qualitative standards set out in the ‘Sustainable Residential Development in Urban Areas’. ‘Sustainable Urban Housing; Design Standards for New Apartment’ Guidelines, and Draft ‘Urban Development and Building Heights Guidelines for Planning Authorities’.

RPO 5.5: Future residential development in the Dublin Metropolitan Area shall follow a clear sequential approach, with a primary focus on the consolidation of Dublin and suburbs, supported by the development of Key Metropolitan Towns in a sequential manner as set out in the Dublin Area Strategic Plan (MASP) and in line with the overall settlement strategy for the RSES.

6.3. ***National Planning Framework (2018)***

The National Planning Framework addresses the issue of ‘making stronger urban places’ and sets out a range of objectives which it considers would support the creation of high quality urban places and increased residential densities in appropriate locations while improving quality of life and place. Relevant Policy Objectives include

- National Policy Objective 4: Ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being.
- National Policy Objective 13: 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. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.
- National Policy Objective 33: 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 35: 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 and increased building heights.

6.4. **Section 28 Ministerial Guidelines**

Having considered the nature of the proposal, the receiving environment, the documentation on file, including the submissions from the planning authority, I am of the opinion that the directly relevant Section 28 Ministerial Guidelines are:

- Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, 2020
- Urban Development and Building Heights Guidelines, 2018
- Urban Design Manual, A Best Practice, 2009
- Design Manual for Urban Roads and Streets, 2013
- The Planning System and Flood Risk Management Guidelines, 2008
- Architectural Heritage Protection Guidelines, 2011

Material Contravention Statement

The applicant submitted a Material Contravention Statement. The statement provides a justification for the material contravention of the Dun Laoghaire Rathdown Development Plan 2016 - 2022 in relation to (i) Building Height, (ii) Car Parking, (iii) Mix of Units and (iv) Private Open Space. The statement is summarised below: -

Building Height: The proposed development ranges in height from 5 – 13 storeys. The Building Height Strategy (Appendix 9) and the Dun Laoghaire Urban Framework Plan (Appendix 12) of the development plan do not provide upper height limits or restrictions on building heights of proposed developments in Dun Laoghaire Town Centre. Therefore, the Board may consider that the proposal does not constitute a material contravention.

Notwithstanding this, having regard to the concerns raised by the planning authority in their pre-planning consultation opinion a justification for the proposed building height has been provided.

It is considered that in this instance the increased height should be considered in the context of the Apartment Guidelines, 2020, SPPR3 of the Urban Building Height Guidelines, 2018, Objectives 3a, 4, 13, 32, 33 and 35 of the National Planning Framework 2040, and on a site specific contextual basis.

Car Parking: Table 8.2.4 requires 1 no. space per 1-bed apartment and 1.5 no. spaces per 2 bed apartments. In addition, 1 no. space is required per 15sqm GFA of a café. Therefore, 139 no. car parking spaces are required. It is proposed to provide 3 no. spaces. Agreement in principle has been reached with a car club provider for the operation of 2 no. spaces. The level of car parking is considered justified by SPPR8 of the Apartment Guidelines, which states that there shall be a default of minimal of significantly reduced car parking provision to Build to Rent developments and Objective 27 of the National Planning Framework.

Mix of Units: Section 8.2.3.3(iii) – Mix of Units requires that larger schemes over 30 units should generally comprise of no more than 20% 1-bed units. The proposed development comprises 80 no. 1-bed units and 22 no. 2-bed units. The mix is considered appropriate having regard to SPPR8(i) of the Apartment Guidelines which state that no restrictions on dwelling mix shall apply in the case of Build to Rent developments.

Private Open Space: Section 8.2.8.4 refers to Table 8.2.5: Balconies / Winter Gardens: Minimum Private Open Space Standards which requires 6sqm private open space for 1 bed apartments and 8sqm of private open space for 2-bed apartments. A number of units proposed do not have a balcony or terrace as a design response to the character of Charlemont Terrace. This is justified by SPPR8(ii) of the Apartment Guidelines which allows for flexibility in relation to the provision of a proportion of private amenity space.

Having regard to the above it is considered that the proposed material contraventions are justified by reference to section 37(2)(b)(iii) of the act. It is also considered that the proposed development falls within the definition of Strategic or National Importance and is, therefore, justified by Section 37(2)(b)(i) of the act.

7.0 Third Party Submissions

79 no. third party submissions were received. The submissions generally support the redevelopment of the site for residential development. The concerns raised are summarised below: -

Principle of Development

- The development fails to adequately address the zoning objective for the site.
- The proposed development has not overcome the previous reasons for refusal on the site and this application is higher, denser and proposes substantially fewer car parking spaces.
- It is considered that the site is located in a Transitional Zone and would materially contravene Section 8.3.2 of the Development Plan which states that new infill development shall respect the height and massing of existing residential units.
- The development would materially contravene policy RES3 of the development plan to promote higher densities, provided the proposals ensure a balance between the reasonable protection of existing residential amenities and the established character of the area.
- The development would materially contravene the height, unit mix and open space provisions set out in the development plan. The submitted documentation does not justify the proposed material contraventions.
- The loss of lands that could accommodate the future expansion of St. Michael's Hospital.
- There have been significant improvements in Dun Laoghaire in recent years. It is noted that the subject site is identified in the Urban Framework Plan as an opportunity site, however, the proposed development is completely inappropriate and would not enhance the surrounding area or seafront.

Tenure

- The proposed tenure goes against the establishment of family homes and would lead to transient community. The development would not contribute to the growth of a permanent community as the apartments are not suitable for families.
- No justification for the proposed Build to Rent model.

- This type of development is profit driven and does nothing to solve the housing crisis.
- There are sufficient number of 1-bed co-living units provided in Dun Laoghaire in the new development at Eblana Avenue.
- Concerns regarding the Part V proposal, to rent 10 no. units to the local authority, which would result in the council paying in excess of the Housing Assistance Payment for the units. This does not represent value for money and does not provide permanent homes for tenants.
- The rejuvenation of Dun Laoghaire requires developments that respect the broad socio-economic balance of the locality and the proposed development does not respect this balance.

Design Approach

- The development is significantly larger, higher, and denser than development in the immediate vicinity of the site. The development represents a poor-quality design with no architectural value. The scale, mass and bulk of the development is inappropriate for this location.
- This is overdevelopment of an infill site. The proposed number of units is excessive. The scheme includes several single aspect, north facing apartments which do not satisfy the private space requirements of the apartment guidelines. A more appropriately scaled development could address these deficiencies.
- The proposed density is excessive.
- The Urban Framework Plan does not designate this site as appropriate for a higher building in order to act as a gateway to the Seafront Quarter or as a Bookend to the Lexicon (library) or as a landmark. These concepts are only promoted by the applicant.
- The development would unbalance the grain, character, and skyline of the view of Dun Laoghaire from East Pier.
- The internal layout is poor and there is a lack of storage.
- The proposed development is an inappropriate form of development on an infill site within an architecturally sensitive area and close to buildings and streetscape elements associated with the waterfront of Dun Laoghaire.

- Inappropriate housing mix. Overprovision of 1-bed units. Larger sized units are required especially having regard to the current covid-19 pandemic and the requirement to work from home.
- The proximity of the development to the existing Harbour View development would result in a fire hazard. The Fire Department would find it extremely difficult to manage a fire of a building of this scale.
- Insufficient consideration of the proposed pedestrian route through the site. It would result in anti-social behaviour.
- Location of bin storage could result in undue odour.

Height

- The 13-storey tower is not justified and would radically alter the character of the wider area. The development is actually 14 storeys as the top level is double height. If permission is being contemplated conditions should be attached to significantly reduce the height of the development.
- The Building Height Guidelines in allowing for greater density, this impacts on the core strategy and housing strategy of the development plan. A grant of permission in excess of the maximum height results in a contravention of the zoning objective for the site.
- The development does not fulfil the criteria set out in SPPR3 of the Building Height Guidelines.
- Dun Laoghaire is a town and not a city. There is no requirement for a landmark building. The town Victorian stone-cut public or semi-public landmark buildings, most notably the spires of St. Michael's and Mariners' Church. In addition, the elegant Town Hall Tower is a planned Victorian seafront landmark. The proposed development would render the Town Hall insignificant.

Residential Amenity

- The development would adversely impact on local residential amenities, in terms of overlooking from large rooftop gardens, overshadowing, and overbearing impact.
- The incorrect data with respect to apartment numbers in Harbour View makes it impossible to assess the true impact of overshadowing. The applicant's assessment of daylight notes that Harbour View achieves an unrealistic and

above average level of daylight for a town centre location on an urban infill site. This is an existing development and no reason to disregard the detrimental impact that the development would have.

- The light study completely ignores no. 6 Charlemont Terrace, which is located c. 2.9m from a 5 and a half storey blank gable wall.
- The proposed building would block existing views of the seafront / harbour.
- The proximity of the development to the existing Harbour View development would result in a wind tunnel effect between the buildings.
- Noise disturbance due to the proximity of the balconies and roof terraces to existing properties.
- Light pollution due to the proximity of the development to existing properties.
- The lack of private balconies for some units is unfortunate and would affect future residential amenity.
- Due to the proximity of the site to Harbour View the future residents would also be affected by overlooking.
- The proposed development could cause structural damage to adjacent properties.
- Considerable noise and disturbance during the construction phase. Concerns regarding potential negative impact on structural stability of adjacent properties due to the nature of rock on which the site is located.

Visual Amenity

- This is a visually prominent site. The size and scale of this development would alter the coastal fringe and have a negative visual impact for a great distance. The negative visual impact is demonstrated in a number of photomontages submitted with the application. The application does not include a CGI from anywhere within Harbour View, this is a significant omission.

Built Heritage

- A number of submissions include a brief history of the development of Dun Laoghaire. The development would have a negative visual impact and would diminish the settling of adjacent protected structures and of Dun Laoghaire Harbour which is a candidate for Architectural Conservation Area.

- The proposed development is out of character with the Georgian and Victorian buildings along the coast.
- Further consideration of the development, in particular Building 01 adjoining the row of protected structures along Charlemont Terrace, is required having regard to the Architectural Heritage Protection Guidelines.
- The proposed height would set a new norm for the area that is inconsistent with the historically significant church spires that are synonymous with Dun Laoghaire.
- There is no precedence for the proposed height in Dun Laoghaire. It will dominate the skyline. The building line on of Charlemont Terrace is not respected. The proposed development is out of character with the surrounding area and it dominates and diminishes the historic seafront area.

Social Infrastructure / Open Space

- There are no recreation areas, community facilities or open spaces along the seafront. The proposed development would not add to the local community. This area could be used as a recreational / community space for the good of the hospital, residents, and visitors.
- There is a lack of facilities for children and young people in Dun Laoghaire this site could be used for an alternative purpose.
- Insufficient open space has been provided within the scheme, which is a material contravention of the development plan.
- Due to the Irish climate people would not sit out at the rooftop levels in close proximity to the sea. The proposed landscaping would not survive in the coastal climate.
- The public open space is very limited in size. The semi-public space to the west is larger but is of little value to the public.

Cultural Heritage

- The subject site was previously in use as a Magdalene Asylum and Laundry (1878-1963) and was known as St. Patricks Refuge. The proposed development is inappropriate having regard to the previous use.

- Considering the sensitive nature of this site and the issues that have come to light on similar sites a full archaeological examination is required. The applicant has not addressed this issue in the documentation submitted.

Transportation

- Insufficient car parking to cater for the development. This will lead to overspill car parking on the surrounding road network. No consideration of the cumulative impact of the co-living development on Eblana Avenue.
- Consideration of the previous refusal on the site which related to the loss of existing car parking on site, an under provision of car parking for the proposed development and traffic congestion in the area.
- There is a lack of clarity regarding the ability of 2 no. car sharing spaces to replace 15 no. car parking spaces.
- Local residents are reliant on on-street car parking. The proposed development would have a negative impact on the capacity of the existing spaces.
- The loss of parking on site would increase parking and general traffic congestion on the surrounding road network.
- There are concerns for emergency access within the site.

Physical Infrastructure

- The development would negatively impact on the capacity of the existing drainage and sewerage network, which experiences problems during heavy periods of rain.
- The wastewater treatment facility is at capacity. There was a sewerage leak at Ringsend wastewater treatment plant in February 2020 and all swimming was banned in the vicinity of the site. the proposed development would exacerbate the existing capacity issues.
- The additional population would negatively impact on broadband and television services.

Environmental Considerations

- There are concerns that the proposed development would have a negative impact on Dublin Bay which is a designated site.
- The Building Height guidelines are contrary to the SEA Directive, insofar as they purport to authorise contravention of the development plan / Local Area

Plan, without SEA being conducted on or a screening for SEA being conducted on the variations being brought about by the proposed development.

- The EIA Screening Report and information provided by the applicant does not comply with the mandatory requirements of the Planning and Development Regulations and the EIA Directive insofar as it does not include all the information / statements required under the Regulations.
- The EIA Screening Report does not comply with the requirements of the Planning and Development Act, the Planning and Development Regulations and the EIA Directive in circumstances where no consideration has been given to the nature and / or extent of the excavation works required to implement the proposed development, including impact of said works, which involve rock breaking working, on human health.
- The AA Screening report does not comply with the requirements of the Planning and Development Act and the Habitats Directive in circumstances where, inter alia, it (i) contains lacunae and has not properly considered all aspects of the proposed development, such as the nature and extent of excavations and rock breaking works; and (ii) by reference to the Outline Construction Management Plan, it appears to rely on mitigation measures, to 'screen out' the need for a Stage 2 Appropriate Assessment.

Inland Fisheries Ireland

- Pollution of the adjacent coastal waters from poor on-site practices could have a significant negative impact on the fauna and flora of waters in Dun Laoghaire Harbour. All measures necessary should be taken to ensure protection of local aquatic ecological integrity.
- Ringsend WWTP is currently working at or beyond its design capacity and will not be fully upgraded until 2023. It is essential that local infrastructural capacity is available to cope with increased surface and foul water generated by the proposed development in order to protect the ecological integrity of any receiving aquatic environment.

Other Issues

- Concerns have also been raised regarding the SHD process.
- There are insufficient details provided in relation to the sub-structures referred to in the Outline Construction Management Plan and / or insufficient detail or

information in relation to the construction phase operations required to realise such sub-structures.

8.0 Planning Authority Submission

- 8.1. The Chief Executive's Report, in accordance with the requirements of Section 8(5)(a) of the Act 2016, was received by An Bord Pleanála on the 4th of March 2021. The report includes a summary of the proposed development, policy context, recent planning history, third-party submissions, and prescribed bodies. A summary of the views of the elected members of the Dundrum Area Committee, meeting held on the 9th of February 2021. The main concerns, of the elected members related to the respectful and comprehensive examination of the site due to history and context of the Magdalene Laundries, the proposed density, height and scale would be overdevelopment of the site, not in accordance with the zoning objective, out of character with the area, visual impact, impact on adjacent properties in terms of overlooking, overshadowing and overbearing, level of car parking and cycle parking, impact on protected views, impact on the community, noise disturbance, housing mix, under provision of dual aspect units, conservation policies need to be addressed, Part V provision / costs and concerns regarding the SHD process. Reports from the Drainage Planning, Transportation Planning, Parks and Landscape Services, Public Lighting, Housing Department, Environmental Section, Conservation Officer and Architects Division have also been provided.
- 8.2. The key planning considerations of the Chief Executive's report are summarised below.

Principle of Development: Having regard to the sites size and infill nature, its proximity to facilities and public transport, it is considered that this site has an important role to play in terms of consolidating growth within the Dublin Metropolitan Area. In this regard the development is considered to be in accordance with national and regional policy objectives, however, there are concerns regarding the height, density, design and scale of the proposed scheme within its context, impact on views and residential amenities of adjacent properties and future residents.

It is considered that the proposed development does not accord with Section 8.2.3.3 (vii) (Infill) or Section 8.2.3.3 Apartment Development of the development plan.

The proposed development would fail to provide the uses and activities appropriate to the Seafront Quarter, would be contrary to Policy RET4: Major Town Centre, would fail to provide an appropriate mix and balance of uses at this location in accordance with the requirements of the Dun Laoghaire Urban Framework Plan and would, therefore, not be in accordance with the MTC Zoning objective for the area. It is recommended that permission be refused on this basis.

Permeability: Having regard to the location of the site and the established pattern of development, it is considered that the proposed development fails to successfully demonstrate the provision of permeability and accessibility between developments and the greater integration with the town centre. It has not been adequately demonstrated that the layout complies with Section 8.2.8.3 Public / Communal Open Space of the development plan.

Access: Section 2.6 of the Dun Laoghaire Urban Framework Plan sets out an objective to 'seek to use existing car park ramp to access neighbouring development to minimise impact on frontage'. The proposed scheme does not intend to use the existing car park ramp. The applicant's justification for the proposed access from Crofton Road is noted, however, it is considered that the proposed access does not accord with the requirements of the Framework Plan.

Density: It is considered that the proposed density of 309 no. units per ha would support the consolidation and re-intensification of an existing underutilised infill site on serviced lands. However, there are serious concerns regarding the overall height, scale, and massing of this particular scheme within its immediate and overall context, as well as concerns relating to its impact on residential amenities.

It is considered that the density is excessive and would represent overdevelopment of the site.

Residential Mix: The proposed housing mix materially contravenes Section 8.2.3.3 of the development plan which states that schemes over 30 no. units should generally

comprise of no more than 20% 1-bed units. It is noted that SPPR8 of the Apartment Guidelines does not place any restrictions on the mix within Built to Rent schemes.

Building Height and Scale: The subject site has not been identified for a landmark building. Appendix 9: Building Height Strategy of the development plan and the various upward modifiers and downward modifiers are noted. With regard to the impact of the proposed development on the urban skyline and in considering the matter of providing a landmark building at this location, the report of the Architects Department is noted which raises a number of concerns regarding the design, layout and height of the proposed development and recommends that the tower be omitted. The planning authority concurs with the concerns raised.

The Conservation Section concerns regard the potential negative impact on the urban skyline and historic setting are also noted. It is considered that the development has not carefully addressed the scale and setting of Charlemont Terrace and other protected structures in the area, having regard to its height.

There are serious concerns regarding the height, bulk, and scale of the development within its context. Having regard to the prominent location of the site and the height of the proposed development it is considered that it would harm the particular character of the coastline at this location, including views from the sea / pier and, therefore, the proposal in its current form is contrary to Appendix 9 and does not accord with the requirements and objectives of the Dun Laoghaire Framework Plan.

The planning authority does not agree with the findings of the applicants Architectural Impact Assessment and Landscape and Visual Impact Assessment that the necessary transition in height has been provided and it is considered that the development has not had sufficient regard to the qualities of the buildings and areas of architectural and historic interest and important views and prospects.

The planning authority assessed the proposed development against the criteria set out in SPPR3 of the Building Height guidelines and is not satisfied that the development accords with national guidance.

In conclusion, it is considered that the proposed heights are excessive, would have a significant adverse effect on the visual amenities of the area and its wider context. It

is recommended that permission be refused on this basis. If permission is being contemplated, a number of modifications are recommended to reduce the height and scale of the development.

Urban Design and Form: The development is a high-density scheme with heights significantly in excess of the surrounding area. Having regard to the height of the buildings and their proximity to the eastern boundaries of the site there are concerns regarding overlooking of adjacent properties and on the setting of the protected structures on Charlemont Terrace.

The height and massing of the buildings would appear visually overbearing when viewed from adjacent properties and the surrounding area.

The planning authority are not satisfied that the development would result in the creation of a new streetscape or built environment that would enhance the residential and visual amenities of the area. Having regard to the size, location, and configuration of the site, it is considered that a development of scale could be accommodated on the site, however, there is a concern that the proposed development is over-scaled.

Residential Amenity: It is considered that the development would constitute a visually overbearing feature when viewed from the private amenity areas of adjacent properties to the east and west. By virtue of its height and proximity to the sites boundaries and its orientation the development would result in significant overshadowing of adjacent properties and would depreciate the value of property in the vicinity. The extent of overshadowing and the degree of daylight loss to individual apartments and dwellings is not considered acceptable in this instance. It is also considered that the development would result in overlooking of existing residential properties to the west. Accordingly, it is recommended that permission be refused on this basis.

Apartment Standards: The Build to Rent models and associated legal agreements are noted. The planning authority are satisfied that the proposals for supporting communal and recreational amenities, unit mix, unit sizes and storage requirements are in accordance with the Apartment Guidelines (2020).

Dual Aspect: It is considered that in accordance with SPPR4 a minimum of 50% of the units are required to be dual aspect.

Car Parking: The provision of the Apartment Guidelines (2020) are noted. The proposed car parking provision of 3 no. spaces is considered too low. The planning authority agree with the recommendation of the Transportation Planning section to provide 0.5 no. space per unit. It is noted that the Transportation Planning recommend that permission be refused on the basis of inadequate residential car parking to serve the proposed development, which would result in an under provision / availability of a car parking space in the area.

Childcare Provision: Having regard to the unit mix and the sites location there is no objection to the non-provision of childcare on the site.

Open Space: It is noted that 15 no. units facing onto Crofton Road do not have sufficient private amenity space and are provided with Juliet style balconies only.

There are concerns regarding the usability of communal open space, due to the height at roof top levels 5 and 8 and potential microclimate effects. There are also concerns regarding the limited size of the internal courtyard and the potential for overshadowing from the height of the blocks. Concerns from the Parks Department are note regarding the omission of any play facilities, the absence of radial sunlight within eh amenity spaces and the inclusion of car parking within the communal courtyard.

While the town centre location and proximity to parks is noted it is considered that a financial contribution in lieu of open space provision be provided.

The provision of public open space is noted.

Drainage Planning: The comments of the Drainage Planning Section are noted. The documentation submitted generally satisfies the requirements of the planning authority.

Transportation Planning: The comments of the Transportation Planning Section are noted and the reason for refusal relating to an under provision is outlined above. Concerns are also raised regarding refuse collection and cycle parking provision.

Waste Management / Construction Management: The comments of the Environment Section are noted. The documentation submitted generally satisfies the requirements of the planning authority.

Public Lighting: No public lighting proposals have been submitted with the application.

Archaeology: The submitted Archaeological Assessment is noted and in the event of a grant of planning permission conditions should be attached in this regard.

Part V: It is proposed to provide 10 no. units by way of lease. The report of the Housing Department is noted.

External Finishes: The proposed external finishes are considered to be generally acceptable.

Signage: It is recommended that a condition be attached that a separate planning application be lodged with regard to signage for the proposed café.

Taking in Charge: It is noted that it is not intended to have any areas taken in charge. This is not considered to be acceptable given the configuration and characteristics of the site. It is considered that the pedestrian walkway should be taken in charge as this represents the main access through the site connecting to Eblana Avenue, Crofton Road and Harbour View Apartments. It is recommended that a condition be attached in this regard.

Management of the Scheme: It is recommended that standard conditions be attached to any grant of permission regarding the management of this proposed Build to Rent scheme.

Flood Risk: The contents of the submitted Site Specific Flood Risk and the comments of the Drainage Section are noted. The documentation submitted generally satisfies the requirements of the planning authority.

Irish Water: The contents of the submitted Engineering Planning Report and the comment from Irish Water are noted. It is recommended that a note be added to any grant of permission that a connection agreement is required from Irish Water.

Appropriate Assessment: The Appropriate Assessment Screening Report is noted.

Environmental Impact Assessment: The EIA Screening Report is noted.

Comment on the Submissions / Observations Received from Third Parties: The planning authority note the concerns of the third parties.

Conclusion: The planning authority would welcome the comprehensive redevelopment of the site, which occupies a prominent location of the approach to the town centre. However, there are significant concerns and it is recommended that permission be refused for the following reasons:

- 1. The proposed development, by reason of its overall height, density, scale, and massing, fails to have regard to its surrounding context, would have a detrimental impact on the character of the surrounding area, would seriously injure the visual and residential amenities of properties located within its immediate vicinity by reasons of overshadowing, overlooking, by being visually overbearing and thereby constitutes overdevelopment of the site. Furthermore, having regard to the window treatments along the side elevation of the proposed Building 01, in particular principally translucent glazing to serve the bedroom in one-bedroom apartments, the proposed development would result in substandard residential accommodation for future occupiers of the proposed development. The proposed development is considered to be contrary to Policy UD1, Appendix 9 (Building Height Strategy) and Appendix 12 (Dun Laoghaire Framework Plan) of the Dun Laoghaire Rathdown County Development Plan, 2016 – 2022, the Urban Development and Building Heights, Guidelines for Planning Authorities (2018, DoHPLG). The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.*
- 2. Having regard to the zoning objective of the site as 'Major Town Centre' and the location of the site within the Seafront Quarter of Dun Laoghaire, as contained in the Dun Laoghaire Urban Framework Plan, it is considered that the proposed development, fails to provide an appropriate mix and balance of uses and activities, given the MTC zoning and fails to provide the mix of uses and activities appropriate to the Seafront Quarter as envisioned in the Dun*

Laoghaire Urban Framework Plan. The proposed development is considered to be contrary to Policy RET4: Major Town Centres of the Dun Laoghaire Rathdown County Development Plan, 2016 – 2022, contrary to Appendix 12 (Dun Laoghaire Urban Framework Plan) and contrary to MTC Zoning objective for the area. Therefore, the proposed development is contrary to the proper planning and sustainable development of the area.

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

If permission is being contemplated the planning authority have provided 44 no. suggested conditions and 5 no. notes. Condition no. 2 is of note and is outlined below:

2. Prior to commencement of development, revised plans and particulars shall be submitted to and agreed in writing by the Planning Authority, which shall show the following amendments to the proposed development:

Building 01:

- a. Floor levels L07, L08, L09, L10 and L11 at the 13th storey of Building 01, shall be omitted. The maximum height of Building 01 shall comprise 8 storeys.
- b. A communal roof terrace shall be provided at level 06, whereby the 2 no. one-bedroom apartments (Apartment B1_06.04 and Apartment B1_06.03) shall be omitted and replaced with a communal roof terrace.
- c. The part of floor level L03 in the western most of Building 01, i.e., to approximately to the area located above the vehicular entrance only, which is sown to extend to 7403mm in width, shall be omitted from the proposed development. The remaining floor areas of Apartment B1_03.01 and Apartment B1_03.09 (which are located outside of this 7303mm distance) shall be subsumed into the floor area of either one or both of the adjoining apartments on floor level L03.

Building 02:

- d. Floor level L07 of Building 02 shall be omitted in its entirety.

Reason: To protect the visual and residential amenities of the area and in the interest of the proper planning and sustainable development of the area.

9.0 Prescribed Bodies

9.1. The list of prescribed bodies, which the applicant was required to notify prior to making the SHD application was issued with the Section 6(7) Opinion and included the following: -

- Minister of Culture, Heritage, the Gaeltacht, Sports and Media
- The Heritage Council

- An Taisce
- The Arts Council
- Failte Ireland
- Irish Water
- Dun Laoghaire Rathdown County Childcare Committee
- Transport Infrastructure Ireland

The applicant notified the relevant prescribed bodies listed in the Board's Section 6(7) opinion. The letters were sent on the 7th of January 2021. A summary of the comments received are summarised below:

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

Archaeology

- The Department agrees with the recommendations as outlined in the archaeological report to record the potential impact, if any, on archaeological remains in the area where development is proposed to take place.

Architectural Heritage

- There are concerns regarding the scale of the development and the impact that it will have on the adjoining historic town and port and its unique maritime context. The intrusion of the proposed residential tower in terms of its prominent location within the subject site and in the context of the overall maritime character area is significant.
- The proposal as submitted doesn't adequately reflect or respect the guidance of the current Dún Laoghaire-Rathdown Development Plan objectives or policy in terms of conserving architectural heritage, the historic character or sense of place in terms of the location and siting of these monolithic blocks within this historic setting and cultural landscape. The architectural heritage does not adequately deal with the overall impact on the setting of the historic town and its core buildings.
- The Department recommends reconsideration of the design approach and the reduction in the proposed scale of the dominant tower.

Nature Conservation

- It is recommended that a condition be attached to any grant of permission that the removal of trees or shrubs to facilitate the development shall only take place outside the main bird nesting season, i.e. during the period from September to February inclusive.
- It is recommended that a condition be attached to any grant of permission that a full bat roost survey of the dwelling house on the site shall be carried out,

Irish Water

The applicant has engaged with Irish Water in respect of design proposal for which they have been issued a Statement of Design Acceptance for the development. It is recommended that a number of standard conditions be attached to any grant of permission.

An Taisce

Preliminary Consideration

- Consequent to the 1st July 2020 judgment in *An Taisce v An Bord Pleanála and others* [2020] IESC 39, the pre-application consultation process for Strategic Housing applications breaches Aarhus principles for the same reason as that found to be the case for the Substitute Consent pre-application consultation with the Board.

Building Height

- The proposed height of 13 storeys for Building 01 is excessive for the area. It would be overbearing and have a significant negative impact on the surrounding streetscape and existing buildings. Furthermore, given the prominent location on Crofton Road, the proposed tower would also be highly visible from the seafront. It is considered that it would inappropriately dominate the view back to Dun Laoghaire from both the East and West Piers.
- We would also highlight that the subject site has not been identified in the Dun Laoghaire Urban Framework Plan (Appendix 12 of the current Dun Laoghaire Rathdown Development Plan 2016-2022) as suitable for a building of this height.

- While the site is well served by public transport options and is in close proximity to existing services and amenities, it is submitted that the proposal, specifically Building 01, should be substantially scaled back in height to better align with existing development in the area.

Transport Infrastructure Ireland

- Raises no objection in principle to the development and recommends standard conditions be attached to any grant of permission.

No comments were received from the Heritage Council, The Arts Council, Failte Ireland and Dun Laoghaire Rathdown County Childcare Committee.

10.0 Oral Hearing Request

10.1. Requests were received for an oral hearing. Section 18 of the Act provides that, before deciding if an oral hearing for a strategic housing development application should be held, the Board:

- (i) Shall have regard to the exceptional circumstances requiring the urgent delivery of housing as set out in the Action Plan for Housing and Homelessness, and
- (ii) Shall only hold an oral hearing if it decides, having regard to the particular circumstances of the application, that there is a compelling case for such a hearing.

10.2. In my opinion there is sufficient information on file to allow for a proper and full assessment of the case without recourse to an oral hearing. I note the observer submissions received and the contents thereof. Having regard to the information on file, to the nature of the proposed development and to the location of the development site, I do not consider that there is a compelling case for an oral hearing in this instance.

11.0 Assessment

The Board has received a planning application for a housing scheme under section 4(1) of the Planning and Development (Housing) and Residential Tenancies Act 2016.

My assessment focuses on the National Planning Framework, the Regional Economic and Spatial Strategy and all relevant Section 28 guidelines and policy context of the statutory development plan and the Dun Laoghaire Urban Framework Plan and has full regard to the chief executives report, 3rd party observations and submission by prescribed bodies. The assessment considers and addresses the following issues: -

- Zoning
- Cultural Heritage / Archaeology
- Housing Tenure
- Quantum of Development
- Height
- Residential Amenity
- Housing Mix
- Built Heritage
- Open Space / Landscaping
- Permeability and Access
- Transportation and Car Parking
- Water Services
- Material Contravention

11.1. ***Zoning***

- 11.1.1. The proposed scheme comprises the redevelopment of a brownfield site within Dun Laoghaire town centre. The site currently accommodates a large surface car park and a vacant dwelling. It is located on a land zoned MTC – Major Town Centre, with the associated land use objective to protect, provide for and /or improve Major Town Centre facilities. It is noted that residential and café use are both permitted in principle under this zoning objective.
- 11.1.2. Third party submissions raised concerns that the proposed development does not provide adequate services and facilities in accordance with the zoning objective. The planning authority also raised concerns that the proposed development fails to provide an appropriate mix and balance of uses and activities, having regard to the MTC zoning objective and to the sites location within the Seafront Quarter, as envisioned

in the Dun Laoghaire Urban Framework Plan (Appendix 12 of the development plan). It is also considered that the proposed development is contrary to Policy RET4: Major Town Centres. The planning authority recommended that permission be refused on this basis.

- 11.1.3. The applicants Statement of Consistency notes the zoning objective and states that the proposed uses are permissible in principle and the occasional public use of the proposed 13th floor roof terrace is considered to be a 'community use'. With regard to the objectives of the Urban Framework Plan an informal seating area and public plaza are provided adjacent to the ground floor café. A new pedestrian link is also proposed along the eastern site boundary to encourage public use and contribute positively to the commercial viability of the town centre. The applicant considers that the development integrates with and enhances the streetscape and the public realm.
- 11.1.4. It is proposed to provide a café unit (with a net floor area of 63sqm) within the ground floor of Building 01. This unit is provided at the north east corner of Building 01 and has direct access onto a proposed public plaza with associated outdoor seating areas. The applicants Statement of Consistency also states that the 62sqm co-working / study area located at the north west corner of the ground floor of Building 01 would be publicly accessible.
- 11.1.5. It is acknowledged that the redevelopment of the site, which includes an active frontage along Crofton Road and a new public pedestrian link along the eastern site boundary towards St. Michaels Hospital, to the south of the site, would support the MTC zoning objective and improve the public realm. However, having regard to its major town centre zoning objective I would agree with the concerns of the third parties and the planning authority.
- 11.1.6. With regard to the sites Major Town Centre zoning objective it is noted that Table 3.2.1 of the development plan sets out the retail hierarchy for the county. Dun Laoghaire and Dundrum are designated as Major Town Centres. With regard to Dun Laoghaire, the overall strategy includes the consolidation of the Town Centre Quarter, the incremental growth of a secondary character quarters and upgrading of the public realm. The development plan identifies Major Town Centres as centres that provide a full range of all types of retail services from newsagents to specialist shops and

boutiques, department stores, food stores of all types and a high level of mixed uses including the arts and culture to create a vibrant living place. Centres should be well connected and served by high quality public transport and should be serving population catchments in excess of 60,000 people. While the sites proximity to high quality public transport and the proposed improvements to the public realm are noted, it is my view that the proposed scheme does not adequately contribute to the consolidation of the retail / commercial element of town centre quarter as the development fails to provide an appropriate mix and balance of uses and activities.

- 11.1.7. The planning authority also consider that the proposed development is not in accordance with Policy RET4 to maintain the two Major Town Centres - Dún Laoghaire and Dundrum as the primary retail centres in the County. I would agree with the planning authority's concerns that the proposed development does not adequately provide for retail and services permissible under the zoning objective or any complementary leisure, entertainment, and cultural facilities.
- 11.1.8. With regard to the objectives of the Urban Framework Plan the planning authority have stated that the proposed development fails to provide a mix of uses and activities appropriate to the Seafront Quarter as envisioned in the plan. It is noted that the subject site is located within the Seafront Quarter, as outlined in the plan it is an aim to encourage the incremental growth of secondary character 'Quarters' in the town which include the Seafront Quarter. The role of the Seafront Quarter is to act as a link between the Waterfront and the Town Centre. The seafront area has undergone significant change in recent years, in particular the redevelopment of the Town Hall, the Theatre at the Pavilion site, and the Lexicon building. The plan notes that there are a significant cluster of ground floor restaurants / retail units together with new residential developments in this area which has significantly improved the vitality and life of the seafront. It is an objective to consolidate this positive activity and to link it with the town centre. Having regard to the nature of the proposed development which is primarily residential I would agree with the concerns raised by the planning authority that the proposed development does not provide an adequate mix of uses and activities for this site located within the seafront quarter.
- 11.1.9. The planning authority's recommended reason for refusal is noted, however, in my view this concern could be addressed by way of condition. In this regard the ground

floor kitchen / lounge area (85.7sqm) and attached games room area (72.8sqm) at the ground floor of Building 01 should be replaced with retail / commercial unit(s) with direct frontage onto the proposed pedestrian walkway along the eastern site boundary. The residential amenity spaces omitted should be relocated to the first-floor level and generally replace units B1_01.05 and B1_01.06. It is my opinion that the provision of additional ground floor retail / commercial space would ensure the development was in accordance with principles of the zoning objective and the vision for the site as set out in Appendix 12 – Dun Laoghaire Urban Framework Plan.

11.2. *Cultural Heritage / Archaeology*

- 11.2.1. Third parties have raised concerns that the redevelopment of the site is inappropriate having regard to its former use as a Magdalene Laundry and it is considered that due to the sensitive nature a full archaeological examination is required.
- 11.2.2. The applicants Architectural Heritage Impact Assessment notes that a Magdalene Asylum and Laundry was completed in 1878 and that this building is now occupied as part of St. Michael's Private Hospital. The subject site is the most northern part of the grounds of the former Magdalene Asylum and was in use as a garden before it was laid out as a car park.
- 11.2.3. Third parties have stated that the laundry closed in 1996, which conflicts with the applicants Archaeological Assessment which states that the Magdalene Laundry closed in 1963 and has been in use as a car park since the 1990's.
- 11.2.4. The original garden no longer exists, and the site was subject to disturbance to provide the current car park and (vacant) dwelling. While I am sensitive to the history of the site, it is noted that it does not contain any buildings that were associated with the former Magdalene Laundry and no evidence has been submitted to suggest that this site was used as a burial ground. It is also noted that the planning authority's Conversation report does not raise any concerns regarding the former use of the site. In my view a condition should be attached to any grant of permission ensuring that all ground disturbance associated with the development be monitored by a suitably qualified archaeologist for evidence of burial activity, or other archaeological features.

11.3. ***Housing Tenure***

- 11.3.1. The proposed development comprises 102 no. Build to Rent apartments. Concerns are raised by third parties that the proposed tenure would not contribute to the growth of a permanent community as the apartments are not suitable for families and would result in a transient community. It is also stated that no justification has been provided for the proposed Build to Rent model.
- 11.3.2. In support of the BTR scheme the applicant submitted a Build to Rent Operational Management Plan which notes that the scheme has been designed to encourage interaction and community amongst residents, while also enhancing the local community through the addition of a café and bookable space for local events (13th floor).
- 11.3.3. Section 3.4 of Appendix 2 – Interim Housing Strategy of the development plan notes that private rental accommodation can serve, and is serving, a critical function in the housing market at present and is likely to do so in greater numbers into the future. In addition, Section 5.7 of the Apartments Guidelines states that *‘a key aspect of the BTR is its potential to accelerate the delivery of new housing at a significantly greater scale than at present’*. Therefore, the provision of a BTR development would deliver a higher volume of units for the private rental sector over a shorter timeframe. Having regard to government policy to provide more housing as set out in Rebuilding Ireland – Action Plan for Housing and Homelessness it is my view that the additional housing units are welcomed.
- 11.3.4. SPPR8 of the Apartment Guidelines states that Build to Rent accommodation shall be subject to the requirements of SPPR7. SPPR7(a) requires the submission of a proposed covenant or legal agreement to ensure the scheme remains owned and operated by an institutional entity and that this status will continue to remain for at least 15 years. This has been prepared and an appropriate condition should be attached. SPPR 7 (b) requires provides that developments must be accompanied by detailed proposals for (i) resident support facilities and (ii) resident services and amenities. This information has been provided in the documentation submitted and an Operational Management Plan accompanies this application outlining the management guidelines,

strategy and initiatives that will be implemented during the completion and operation of the development.

- 11.3.5. In my opinion the proposed purpose built nature of the development of the scheme would offer an additional professionally managed housing tenure within Dun Laoghaire and its environs, which is within close proximity to centres of employment, education and a range of services and facility provided within the wider city area. In this regard I have no objection in principle to the proposed housing model. It is noted that the planning authority raised no objection to the proposed tenure subject to the specific requirements of SPPR7 submitted by way of condition.

11.4. ***Quantum of Development***

- 11.4.1. The Urban Framework Plan, notes that there has been significant rejuvenation in Dun Laoghaire in recent years with the notable Lexicon library building and that the harbour has undergone a period of transition, away from its previous role as a freight port towards a marine, leisure and tourism destination. As noted above, the Urban Framework Plan aims to improve the relationship between the seafront and the town centre.
- 11.4.2. The proposed development comprises the construction of 102 no. Build to Rent apartments and a café unit. The development is provided in 2 no. Buildings (Building 01 and Building 02). Concerns are raised by third parties that the design approach for the site is inappropriate and would result in overdevelopment. The planning authority stated that having regard to the size, location and configuration of the site, it is considered that a development of scale could be accommodated, however, there are concerns that the proposed development is over-scaled. The planning authority's first recommended reason for refusal considered that the proposed development by reason of its overall height, density, scale, and massing, fails to have regard to its surrounding context, would have a detrimental impact on the character of the surrounding area and would seriously injure the visual and residential amenities of properties located within its immediate vicinity.
- 11.4.3. The proposed scheme is contemporary with a similar design approach to both blocks. The blocks are generally parallel to each other with a separation distance of c. 22m

between the blocks, which is in accordance with development plan standards. The external materials include a light brown reconstituted stone (Building 01), a light grey brick (Building 02), significant portions of glazing and white reconstituted stone at the top floor level of both blocks.

- 11.4.4. Building 01 is located to the front (north) of the site. This building is irregular in shape and accommodates 57 no. apartments above a 363sqm ground floor private residential amenity space and a 93sqm café. The building has a stepped approach to height, ranging in height from 5, 6, 7 and 13 storeys. The 13-storey element is located in the north east portion of the site, c. 8 -12m from the boundary with Crofton Road. A vehicular route is provided through the ground floor and first floor levels, along the western portion of the building which accommodates a right of way through the site to St. Michael's Hospital to the rear (south). Building 02 is located to the south of Building 01 to the rear of the site. It is 8-9 storeys in height and accommodates 45 no. apartments over ground floor residential support services (bin store, water storage and bicycle parking). This building is generally rectangular in shape.
- 11.4.5. The Housing Quality Assessment submitted with the application includes a Schedule of Accommodation. It is noted that each of the proposed units reach or exceed the minimum standards for room sizes as set out in the Sustainable Urban Housing: Design Standards for New Apartments, 2020. The Housing Quality Assessment notes that 47% of units in Building 01 are dual aspect and 33% of units in Building 02 are dual aspect. The planning authority has raised concerns that the proposed development is not in accordance with SPPR4(ii) of the Apartment Guidelines which requires that 50% of units to be dual aspect, in suburban or intermediate locations. Having regard to the site's location within Dun Laoghaire town centre and adjacent to high frequency and capacity public transport, it is my view that that proposed development is not located in a suburban or intermediate location and is located in a central and accessible location. Therefore, it is considered that the development is in accordance with SPPR4(i) which allows for a minimum of 33% of units to be dual aspect and in my view, this is appropriate in this instance.
- 11.4.6. Policy RES3 of the development plan states that it is policy to promote higher residential densities, provided that proposals ensure a balance between the

reasonable protection of existing residential amenities and the established character of areas with the need to provide for sustainable residential development. The planning authority raised no objection in principle to the proposed density and stated that the proposed development would support the consolidation and re-intensification of an existing underutilised infill site on serviced lands. The development has a stated net density of 309 no. units per hectare, which excludes a portion of Crofton Road which is located within the red line boundary from the calculation. Plot ratio is a tool to help control the bulk and mass of buildings and site coverage can prevent the adverse effects of overdevelopment. The scheme has a plot ratio of 2.1 and a site coverage of 24.4%. The development plan does not set out standards for plot ratio or site coverage, however, in my opinion having regard to the urban nature of the site this is considered acceptable and I would agree with the planning authority that the site is capable of accommodating a high density development. In my view, the redevelopment of the site is welcomed and should be viewed in the context a number of contemporary mixed-use buildings along the Seafront including the adjacent Harbour View apartment development, the Theatre at the Pavilion sites and the Lexicon building and that the proposed development would reinforce that changing profile and introduce a new housing type to the vicinity.

- 11.4.7. Objectives 4, 13, 33 and 35 of the National Planning Framework, RPO 5.4 and RPO 5.5 of the Regional Spatial and Economic Strategy 2019-2031 and SPPR3 and SPPR4 of the Urban Development and Building Heights Guidelines, all support higher density developments in appropriate locations, to avoid the trend towards predominantly low-density commuter-driven developments. In addition, Chapter 2 of the Design Standards for New Apartments Guidelines, 2020 notes that it is necessary to significantly increase housing supply, and City and County Development Plans must appropriately reflect this and that apartments are most appropriately located within urban areas, and the scale and extent should increase in relation to proximity to public transport as well as shopping and employment locations. The apartments guidelines identify accessible urban locations as sites within a reasonable walking distance (i.e. up to 10 minutes or 800 - 1,000m) to / from high capacity urban public transport stops, such as DART or Luas. Having regard to the sites location, c120m from the Dun Laoghaire DART station and its proximity to urban centres, employment locations and urban amenities it is my opinion that the proposed increased scale of the proposed

development complies with national guidance and, therefore, is suitable for higher density.

11.4.8. In conclusion, it is my view that the proposed quantum of development is appropriate in this instance having regard to national policy, the area's changing context, the site's size, and proximity to public transport.

11.4.9. Concerns were also raised by a third party that the increased density being brought about by the proposed development, which is a contravention of the development plan, has been done so without SEA being conducted on or a screening for SEA being conducted. Chapter 2 of the Dun Laoghaire Rathdown development plan notes that the Council is required to deliver 30,800 units over the period 2014-2022. Figure 1.3 of the Plan indicates that there are approx. 410 ha of serviced land available which could yield 18,000 residential units. The plan was subject to a strategic environmental assessment in accordance with the SEA Directive (2001/42/EEC). Having regard to the relatively limited number of units proposed it is my view that the proposed development is in accordance with the core strategy of the plan.

11.5. ***Housing Mix***

11.5.1. The proposed development comprises 80 no. 1-bed units (78.4%) and 22 no. 2-bed units (21.6%). Section 8.2.3.3(iii) of the development plan requires that schemes of over 30 no. units should generally comprise of no more than 20% 1-bed units. The planning authority noted that SP8 of the Apartment Guidelines does not place any restrictions on the mix within Built to Rent schemes, however, it is considered that proposed housing mix materially contravenes the plan. Having regard to the wording of Section 8.2.3.3 (iii) as outlined above, it is my opinion that the proposed development would not be a material contravention. However, it is noted that both the planning authority and the applicant consider the housing mix to be a material contravention, therefore, the precautionary approach is considered appropriate in this instance and the issue of material contravention is addressed in Section 11.14 below.

11.5.2. Third parties also raised concerns that the scheme incorporates an inappropriate housing mix, as there is an oversupply of 1-bed units in the area, having particular regard to the co-living development on Eblana Avenue. It is considered that larger

sized units are required. It is noted that construction is currently under way for 208 no. single occupancy bedspaces in a Shared Living Residential Development at Eblana Avenue c. 130m south east of the subject site, which was granted under ABP-304249 in 2019.

11.5.3. The applicant's Statement of Material Contravention justifies the proposed mix stating that future occupants are anticipated to be young professionals and couples wishing to benefit from the site's urban location and links to public transport. It is also stated that future residents may be older people, who are seeking to downsize to a more central and accessible urban location that is well served by services and facilities. The applicants Statement of Consistency also notes that nationally household sizes are declining. In this context, the proposed development provides an appropriate variety of unit types and is also in accordance with the provisions of the Apartment Guidelines 2020.

11.5.4. Having regard to the nature of the use and the provisions of SPPR 8(i) of the Apartment Guidelines, it is my view that the proposed housing mix is justified and appropriate in this instance.

11.6. ***Height***

11.6.1. As noted above Building 01 ranges in height from 5 - 13 storeys and Building 02 ranges in height from 8 - 9 storeys. Concerns were raised by third parties, An Taisce, the Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media and the planning authority that the proposed height of the development is excessive and would have a negative impact on the architectural quality of the area and on existing residential and visual amenities. The planning authority's third recommended reason for refusal states that Dun Laoghaire has largely retained a unique hierarchy whereby civic buildings and church spires have pre-eminence on the skyline. The Dun Laoghaire Urban Framework Plan states that the character of Dun Laoghaire will be protected, that intensification should be promoted generally through compact urban form rather than taller buildings, and also that a key objective is to protect the unique skyline particularly for views from the East and West Piers.

11.6.2. The planning authority also noted that the subject site has not been identified for a landmark building and that having regard to the prominent location of the site, the

proposed height would harm the particular character of the coastline at this location, including views from the sea / pier. It is, therefore, considered that the proposal is contrary to Appendix 9 and does not accord with the requirements and objectives of the Dun Laoghaire Framework Plan. It is noted that An Taisce also raised concerns that the proposed development would be highly visible from the seafront and that it would inappropriately dominate the view back to Dun Laoghaire from both the East and West Piers.

- 11.6.3. The report of the planning authority's Architects Department notes that a tower of this height has no civic purpose or meaning that would justify such a significant change to the skyline and would detract from the character of the area and long-distance skyline views that characterise the area. The Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media also raise concerns regarding the scale of the development and the impact it would have on the adjoining historic town and port and its unique maritime context. It is further considered that the intrusion of the proposed residential tower in terms of its prominent location within the subject site and in the context of the overall maritime character area is significant.
- 11.6.4. Policy UD6: Building Height Strategy of the development plan requires that developments '*adhere to the recommendations and guidance set out within the Building Height Strategy for the County*'. The Building Height Strategy is set out in Appendix 9 of the Development Plan. Section 4.8 of Appendix 9 notes that this strategy relates to areas not already included within the boundaries of a statutory plan. The site is located within the catchment of the Dun Laoghaire Urban Framework Plan. Therefore, the policies and objectives of this plan are considered applicable in this instance.
- 11.6.5. The Dun Laoghaire Urban Framework Plan does not set out any height limits. However, as noted by the planning authority it does state that intensification should be promoted primarily through compact urban form rather than taller buildings. A key objective is to protect the unique skyline, particularly for views from the ends of the East and West Pier. Having regard to the above, it is my view that the proposed height of the development is not a material contravention of the current development plan or the Urban Framework Plan. While the planning authority consider that the proposed

development does not accord with the statutory plans it is noted that they do not consider the proposed height to be a material contravention.

- 11.6.6. The skyline of Dun Laoghaire is relatively low, and the majority of building are below 6-storeys in height. Including the recently approved (ABP-304249-19) Build to Rent development on Eblana Avenue, which is a maximum height of 6-storeys and the adjacent Harbour View development is primarily 6-storeys with a 7-storey set back / penthouse level. When viewed from the piers, the landmark features in the skyline of Dun Laoghaire, which sit above 6 storeys, are considered to be the spire of Michael's Church, the spire of the former St. Mariners Church and the tower of the County Hall. The Lexicon building, while sitting below these features is also a visually dominate building when viewed from the piers.
- 11.6.7. The applicant's Material Contravention Statement states that the proposed development is at an appropriate scale, height, and massing to complement the existing urban form whilst successfully introducing a high quality element of architecture to the site, making optimal use of the brownfield lands. The applicants Architectural Impact Assessment states that the building would not be as prominent as the church spires when viewed from the end of the piers. It is also stated that the building, when visible, would make a positive contribution to the character of the historic town and it is considered that the proposed development would balance the larger presence of the Lexicon and would provide a strong end point to the spire of St. Michael's Church and the tower of County Hall. The applicants Landscape and Visual Impact Assessment notes that the proposed development is unlikely to be visible from most locations within the town and that the scheme is most likely to be visible from a number of locations within Dun Laoghaire Harbour, these would generally be middle or long distance views. The development would also be visible in the distance from Sandycove Harbour. It is acknowledged that the development would be openly visible from some locations on Queens Road, Crofton Road, Charlemont Place and Georges Place.
- 11.6.8. It is noted that the planning authority does not agree with the applicant's assessments and considers that the proposed development would effectively create a new landmark building on the approach to Dun Laoghaire town centre which would be visually incongruous in its setting. The proposed height is substantially in excess of the

neighbouring developments having particular regard to its proximity to 3-storey over basement terrace at Charlemont Terrace (protected structures) and Harbour View to the east. The scheme would result in a form of development that would be visually discordant in the built environment. It is also noted that the planning authority's Architects Department raised concerns that there is no particular reason to mark this corner with a tower and the planning authority's Conservation Section considered that the 13-storey block would detract from the existing urban skyline and the historic spires of St. Michael's and the Clock Tower of the Council offices, which are protected structures and that the proposal does not respond to the architectural character of the area.

- 11.6.9. A number of photomontages are included in the Visual and Landscape Assessment which provide a comparison of the existing site and the proposed development. It is my view that the submitted photomontages provide a reasonable representation of how the proposed development would appear. Due to the height of Building 01 it is acknowledged that this would result in a landmark building that would be highly visible when viewed directly from site boundaries and adjacent streets. I would agree with the applicant's assessment that the scheme would not be visible from the majority of locations within the town centre. Having regard to the information submitted and from a site inspection carried out on the 18th March 2021, it is my view that only the upper levels of Building 01 would be visible from the mid to long distance views (from the piers). Map 3 of the Development Plan indicates that 2 no. views are to be preserved from the end of both the east and west pier.
- 11.6.10. In my view, the proposed development represents a high-quality contemporary scheme, which is in keeping with the recent developments along Dun Laoghaire seafront. It is also considered that the high quality design would improve the visual amenity of this underutilised brownfield site in the centre of Dun Laoghaire. While it is accepted that the proposed height is significantly taller than the existing buildings and would introduce a new feature in the skyline, it is my view that it would not significantly detract from the visual amenities of the area when viewed from the piers and should be considered in the changing context of Dun Laoghaire and the surrounding area. It is noted that it is a key objective of the Urban Framework Plan to protect the unique skyline of Dun Laoghaire, particularly for views from the ends of the East and West

Pier. However, the skyline of Dun Laoghaire is not protected. In my view Dun Laoghaire Harbour has the capacity to absorb the proposed height and the proposed development would have a minimal impact on the visual amenity of the seafront or the landmark features in the skyline (Michael's Church, the spire of the former St. Mariners Church and the tower of the County Hall) when viewed from the middle or long distance views and a majority of locations within the town centre.

- 11.6.11. It is noted that both Building 01 and Building 02 would be highly visible when viewed directly from site boundaries and adjacent streets. However, having regard to the existing use / surface car park and a vacant dwelling on site and the highly visible location of this brownfield site within the town centre the redevelopment of the site is welcomed. The concerns regarding the potential impacts on Residential Amenity and Built Heritage are addressed below in Sections 11.7 and 11.8.
- 11.6.12. It is also noted that third parties have raised concerns that the proposed development would not be in accordance with SPPR3 of the Urban Development and Building Heights Guidelines. Section 3.2 of the guidelines sets out criteria for assessing the scale of the development with regard to the city, street and site level including, proximity to high frequency public transport; integration / enhancement of the character and public realm of the area; response to overall natural and built environment; architectural response; urban design; improved legibility; mix of uses and building typologies. Additional specific assessment may also be required for issues including daylight and sunlight; microclimate; communication. Having regard to the information outlined above it is my view, that the proposed development would be in compliance with SPPR3, having specific regard to the high-quality design and layout of the scheme and its contribution to the consolidation of the urban area.
- 11.6.13. In conclusion, the concerns of the planning authority, prescribed bodies and the third parties are noted and it is acknowledged that the proposed development does not comprise a civic or public building and would introduce a new feature in the skyline of Dun Laoghaire. It is my view that due to the well-considered design of the scheme and the provision of high quality materials, the overall height, would not detract from the existing urban skyline or compete with established landmark structures when viewed from mid to long distance views (the piers) and it is my opinion that Dun Laoghaire can

absorb a high quality building of this height and that the proposed development would make a positive contribution to the streetscape.

11.7. Residential Amenity

- 11.7.1. Concerns were raised by third parties that the proposed development would have a negative impact on the existing residential amenities in terms of overlooking, overshadowing and overbearing impact. The planning authority also raised serious concerns and recommended that permission be refused on the basis that the proposed development would seriously injure the visual and residential amenities of properties located within its immediate vicinity and would result in substandard residential accommodation for future occupiers of the proposed development.
- 11.7.2. Third parties raised concerns that the proposed development does not adequately address the previous reasons for refusal on the site. It is noted that permission was previously refused for 3 no. reasons under PL06D.226077 for the construction of 80 no. apartments and 2 no. retail units in a 6 – 8 no. storey building over 2 no. basement levels of car parking on the subject site. The first reason for refusal considered that having regard to the siting, design and layout of the proposed development and its relationship to adjacent properties, that it would result in overlooking and loss of privacy to adjacent properties and would seriously injure the amenities of property in the vicinity.
- 11.7.3. Section 8.2.3.4 (vii) Infill of the development plan states that that new infill development shall respect the height and massing of existing residential units. Infill development shall retain the physical character of the area. Section 8.2.3.3(iv) Separation Between Blocks of the development plan states that all proposals for residential development, particularly apartment developments and those over three storeys high, shall provide for acceptable separation distances between blocks to avoid negative effects such as excessive overlooking, overbearing and overshadowing effects and provide sustainable residential amenity conditions and open spaces. The minimum clearance distance of c. 22 metres between opposing windows will normally apply in the case of apartments up to three storeys in height. In taller blocks, a greater separation distance may be prescribed having regard to the

layout, size, and design. In certain instances, depending on orientation and location in built-up areas, reduced separation distances may be acceptable.

- 11.7.4. The development is located c. 3m from the site's eastern boundary, and c. 11m from the adjacent Harbour View development. To the west the development is located between c. 0.3m and c. 11m from the site boundary and between c. 3m and c. 30m from adjacent properties. There is a separation distance of c. 22m between Building 01 and Building 02. Having regard to the limited separation distances it is the planning authority's view that the proposed development contravenes Section 8.2.3.3 of the development. It is noted that this contravention has not been addressed in the applicants Material Contravention Statement. In my view having regard to the wording of Section 8.2.3.3, which allows for a reduction in separation distances in built up areas, the proposed development would not be a material contravention of Section 8.2.3.3.

Overlooking to the East (Harbour View)

- 11.7.5. The applicants Design Appraisal report states that the orientation of the 2 no. buildings provides the most appropriate solution to respect the privacy of neighbouring properties, by ensuring that primary views are from the north and the south and not towards neighbouring buildings.
- 11.7.6. As noted above Building 01 ranges in height from 5 - 13 storeys. It is located c. 3m from the eastern boundary and c. 11m from the adjacent Harbour View development. Harbour View is a 6-storey development with a set back at 7th storey penthouse level. The western elevation of the Harbour View development comprises a significant portion of glazing and external balconies.
- 11.7.7. The 1st to 7th floor levels of Building 01 have a depth of c. 30m and the layout provides 2 no. apartments per floor (14 no. apartments) directly opposing the Harbour View development. The layout for these apartments is the same at all levels and includes windows on the eastern elevation to serve living rooms and bedrooms. To reduce the impact of overlooking, the design incorporates louvres on the eastern elevation of the living room windows and angled windows and obscure glazing to the bedroom windows. The living rooms are dual aspect and, therefore, receive their primary source of daylight / sunlight from the northern / southern elevations. In my view, the provision

of louvres at this location are appropriate and would mitigate against the potential for undue overlooking.

- 11.7.8. With regard to the bedroom windows, the bedrooms located in the northern part of Building 01 are provided with angled windows. In the interest of clarity, the reference for these apartment units are B1_01.04, B1_02.05, B1_03.05, B1_04.05, B1_05.04, B1_06.02 and B1_07.02. These windows would ensure that views from these bedrooms are orientated in a north-east to south-east direction, away from Harbour View. In my view the angles provided on these windows prevent undue overlooking of the adjacent Harbour View development and are an appropriate mitigation measure, in this instance.
- 11.7.9. The bedrooms located in the southern portion of Building 01 are provided on a corner. In the interest of clarity, the reference for these apartment units are B1_01.05, B1_02.06, B1_03.06, B1_04.06, B1_05.05, B1_06.03 and B1_07.03. The portion of the window with a north eastern orientation comprise of clear glazing. Having regard to the orientation of these windows it is my view that they would not result in undue overlooking of the adjacent Harbour View development. I have concerns regarding the provision of a fully translucent window on the eastern elevation (as outlined in Figure 26 of the Design Appraisal report). However, it is my view that this concern could be addressed by way of condition. In this regard angled windows, as indicated above or a high-level window, c. 1.8m above the finished floor level should be provided to ensure a satisfactory standard of future residential amenity and to prevent undue overlooking of the adjacent Harbour View.
- 11.7.10. The 8th to 11th floor levels of Building 01 have a depth of c. 16m and provide 1 no. unit per floor (4 no. units) directly opposing the Harbour View development. The layout includes windows on the eastern elevation to serve living rooms and bedrooms at all levels. No mitigation measures have been proposed to reduce overlooking. While it is noted that these levels are higher than the existing Harbour View, it is my opinion that the 8th floor level (unit B1_08.02) could unduly overlook the balcony of the 7th floor level of Harbour View. It is, therefore, recommended that a condition be attached to any grant of permission that the mitigation measures outlined above be applied to the bedroom window of apartment B1_08.02.

- 11.7.11. As noted above Building 02 ranges in height from 8 – 9 storeys and is also located c. 3m from the eastern site boundary and c. 11m from the adjacent Harbour View development. The eastern elevation of Building 02 has a depth of c. 14m. Living room windows are provided at all levels directly opposing the Harbour View development. To reduce the impact of overlooking the design incorporates louvres on the eastern elevation of these living rooms. These living rooms are dual aspect and, therefore, received their primary source of daylight / sunlight from the northern and southern elevations. It is my view that the louvres, where proposed, would prevent undue overlooking and I have no concerns regarding overlooking from Building 02 on the adjacent Harbour View apartments.
- 11.7.12. It is noted that balconies to serve all units are provided on the northern and southern elevations, which could allow for overlooking from the eastern elevation. However, it is my view that this element could be dealt by way of condition to provide appropriate screening on the eastern elevation of the balconies.
- 11.7.13. In conclusion, it is my opinion that the overall layout of Harbour View, which includes a significant portion of glazing and balconies c. 7m from its western site boundary, has constrained the development potential of the subject site. The concerns of the planning authority and third parties regarding undue overlooking are noted. However, it is my view that the proposed design response, which includes 2 no. separate blocks with limited windows on the side (eastern and western) elevations, is an appropriate design solution to address the constraints of this urban site. In addition, having regard to the c. 11m separation distance between Building 01 and Harbour View apartments and the mitigation measures proposed, it is considered that the proposed development would not result in undue overlooking.

Overlooking to the West (Charlemont Terrace, Charlemont Avenue and Charlemont Mews)

- 11.7.14. To the west the site is bound by the gable end of no. 6 Charlemont Terrace, which is a protected structure and in commercial use and to the south west the site is bound by the rear elevation of a mews dwelling (to the rear of no. 6 Charlemont Terrace) and the rear garden of no. 1 Charlemont Avenue (protected structure). The concerns

raised regarding the impact on the setting of the protected structures is addressed in Section 11.8 Built Heritage below.

- 11.7.15. The proposed 5-storey (15.2m) element of Building 01 is located c. 3m from the gable end of no. 6 Charlemont Terrace. Building 02 which is 8-9 storeys (c. 21m – 24m), in height is located c.11m from the rear boundary wall of the mews dwelling and c. 12 from the boundary with no. 1 Charlemont Avenue and c. 30 from the rear elevation of the house.
- 11.7.16. It is noted that concerns are raised by third parties regarding the potential for overlooking of no. 6 Charlemont Terrace. However, in my view having regard to the commercial nature of this property and the window placement on the western elevation of Building 01, the proposed development would not result in undue overlooking of this property. Due to the separation distances and internal layout / window placement of the proposed development, it is my view that Building 02 would not result in undue overlooking of adjacent properties. I have some concerns regarding potential undue overlooking of the rear private open spaces of the adjacent properties to the west and south west, from the 5th floor level roof terrace. However, it is considered that this concern could be addressed by way of condition, in this regard the provision of a high-level screen along the southern and western boundary of the terrace.

Overshadowing

- 11.7.17. The planning authority and third parties have serious concerns regarding the potential for the development to overshadowing the adjacent Harbour View development and it is considered that due to the height, proximity to boundaries and the separation distances between the blocks the residential amenity of future occupants would be also be unreasonably compromised in terms of loss of daylight and overshadowing.
- 11.7.18. The applicant submitted a daylight and sunlight report and an internal daylight and sunlight report to address concerns regarding overshadowing. These reports reference the BS 8206-2: 2008 Code of Practice for Daylighting and the BRE guidance document: - site layout planning for daylight and sunlight (2011). While I note and acknowledge the publication of the updated British Standard (BS EN 17037:2018 'Daylight in buildings'), which replaced the 2008 BS in May 2019 (in the UK), I am satisfied that this document / updated guidance does not have a material bearing on

the outcome of the assessment and that the relevant guidance documents remain those referenced in the Urban Development & Building Heights Guidelines.

External Daylight and Sunlight

- 11.7.19. As noted above the layout of the adjacent Harbour View development includes a large portion of glazing and balconies on its western elevation. The applicants Daylight and Sunlight report notes that Harbour Views relationship with the boundary of the development site was not designed in accordance with BRE guidance and I would agree that the design and layout of Harbour View has negatively impacted the development potential of the subject site. The applicant considers that the existing use, as a surface car park represents an unrealistic baseline for comparison having regard to the site's urban location. Therefore, in accordance with Appendix F of the BRE guidelines the applicant has applied a 'mirror image' study to create an alternative baseline target to aim for, regarding the impact on the Harbour View development only. The mirror image scenario assumes that a mirror massing of Harbour View Apartments is located on the development site. The assessment then shows a direct comparison between a mirror image massing and the proposed development. It is noted that the proposed scheme represents an improvement on the massing of Harbour View, as the scheme has been broken into 2 no. blocks, which allows light to reach the central section of Harbour View apartments.
- 11.7.20. Table 3.1.12 of the report outlines the results for Vertical Sky Component (VSC) and Daylight Distribution (DD) for Harbour View with regard to the mirror image massing. With regard to VSC, 123 no. (59%) of the 209 no. windows assessed would be the same or better. With regard to DD, 136 no. or (87%) of the 156 no. windows assessed would be the same or better.
- 11.7.21. The analysis also creates an additional alternative baseline target to aim for, which assumes the indicative scale and massing of the development outlined for the site in the Urban Framework Plan. VSC, DD and Annual Probable Sunlight Hours (APSH) at adjacent properties, 5 Charlemont Terrace, 5 The Mews, 6 The Mews, 1 Charlemont Avenue, Harbour View Apartments and St. Michael's Hospital are assessed using this alternative baseline. In the interest of clarity, the tables have been provided below.

Vertical Sky Component (VSC) – DLRCC Framework

Building Address	No. of Windows Analysed	Number of Windows 'the same or better'		Total Percentage
		Yes	No	
5 Charlemont Terrace	15	15	0	100
5 The Mews	10	9	1	90
6 The Mews	3	3	0	100
1 Charlemont Avenue	6	6	0	100
Harbour View Apartments	209	118	91	56
St Michaels Hospital	28	28	0	100
Totals	271	179	92	66

Daylight Distribution (DD) – Daylight

Building Address	No. of Rooms Analysed	Number of Rooms 'the same or better'		Total Percentage
		Yes	No	
5 Charlemont Terrace	6	6	0	100
5 The Mews	3	3	0	100
6 The Mews	1	1	0	100
1 Charlemont Avenue	5	5	1	100
Harbour View Apartments	156	135	21	92
St Michaels Hospital	12	12	0	100
Totals	183	162	22	89

Annual Probable Sunlight Hours (APSH) – Sunlight

Building Address	No. of Windows Analysed	Number of Windows 'the same or better'		Total Percentage
		Yes	No	
5 Charlemont Terrace	13	12	1	92
5 The Mews	7	7	0	100
6 The Mews	2	2	0	100
1 Charlemont Avenue	6	6		100
Harbour View Apartments	14	9	5	64
St Michaels Hospital	4	4	0	100
Totals	46	41	6	89

11.7.22. The tables above indicate that the alternative scale and massing outlined in the Urban Framework Plan would have a minor impact on adjacent properties, 5 Charlemont Terrace, 5 The Mews, 6 The Mews, 1 Charlemont Avenue and St. Michael's Hospital. With regard to Harbour View, it is of particular note that 118 no. or 56% of the 209 windows assessed would have the same or better VSC, 135 no. or 92% of the 156 no.

windows assessed would have the same or better DD and 9 no. or 64% of the 14 no. windows assessed would have the same or better APSH.

11.7.23. Section 5 of the report provides an assessment of the effect of the new development with regard to the existing baseline (surface car park). Section 5.2.2 of the report outlines the results for VSC for the adjacent properties. Section 5.2.3 of the report outlines the results for Daylight Distribution for the adjacent properties. In the interest of clarity, the tables have been provided below.

Building Address	No. of Windows Analysed	Meet BRE		Total Percentage
		Yes	No	
5 Charlemont Terrace	15	12	3	80
5 The Mews	10	6	4	60
6 The Mews	3	2	1	67
1 Charlemont Avenue	6	4	2	67
Harbour View Apartments	209	53	156	25
St Michaels Hospital	28	21	7	75
Totals	271	98	173	36

Building Address	No. of Rooms Analysed	Meet BRE		Total Percentage
		Yes	No	
5 Charlemont Terrace	6	6	0	100
5 The Mews	3	3	0	100
6 The Mews	1	1	0	100
1 Charlemont Avenue	5	4	1	80
Harbour View Apartments	156	117	39	75
St Michaels Hospital	12	10	2	83
Totals	183	141	42	77

11.7.24. With regard to Harbour View, it is of particular note that 53 no. or 25% of the 209 windows assessed would have the same or better VSC, 117 no. or 75% of the 156 no. windows assessed would have the same or better DD. As noted in the tables above the VSC for windows at Charlemont Terrace, Charlemont Mews and Charlemont Avenue would also be affected. However, having regard to the information submitted it is my view that the proposed development would have a marginal impact, as VSC

levels range from 0.65 to 0.79. It is noted that the VSC for 1 no. window at no. 6 Charlemont Mews has a value of 0.49, however, I would agree with the applicants assessment that as this window is rectangular in shape (with additional glazing facing away from the development) there would be no material loss of daylight. It is noted that the Daylight Distribution for windows for 1 no. window at Charlemont Avenue and 2 no. windows at St. Michaels Hospital would also be marginally reduced, however, having regard to the information submitted it is my view that the proposed development would not have a significant impact on access to daylight for these adjacent properties.

11.7.25. Section 5.4.2 of the report provides an overshadowing assessment of 11 no. amenity spaces on the 21st of March. In the interest of clarity this table is provided below.

Building Ref	Floor Ref	Existing %	Proposed %	Pr/Ex	Meets BRE Criteria
(March 21)					
1 Charlemont Terrace	Ground	68.94%	65.47%	0.95	YES
2 Charlemont Terrace	Ground	51.06%	50.45%	0.99	YES
3 Charlemont Terrace	Ground	68.63%	51.51%	0.75	YES
4 Charlemont Terrace	Ground	66.92%	51.46%	0.77	YES
5 Charlemont Terrace	Ground	83.34%	53.38%	0.64	YES
6 Charlemont Terrace	Ground	85.65%	83.28%	0.97	YES
2 The Mews	Ground	50.61%	37.00%	0.73	NO
5 The Mews	Ground	0.23%	0.00%	0	NO
6 The Mews	Ground	54.90%	35.64%	0.65	NO
1 Charlemont Avenue	Ground	46.17%	46.16%	1	YES
2 Charlemont Avenue	Ground	57.39%	57.39%	1	YES

11.7.26. It is noted that 3 no. amenity spaces do not reach the BRE standard of 2 no. hours of daylight for 50% of the space on the 21st of March. The applicant notes that 1 no. property (5 The Mews) currently does not reach the BRE standard due to the limited size of the rear garden. It is also noted that the other 2 no. properties (2 The Mews and 6 The Mews) are marginally below the target. It is noted that all spaces exceed the BRE standard on 21st June. Having regard to the information submitted and the urban nature of the site, it is my view that the proposed development would not unduly overshadowing the adjacent amenity spaces of adjacent properties to the west and south west of the site.

Conclusion

- 11.7.27. As outlined above, the Daylight and Sunlight report assessed the impact of 2 no. alternative massing's on the subject site. The report found that it is likely that any kind of viable development on the site would alter the levels of daylight reaching the windows on the western elevation of Harbour View. It is my opinion that this impact is due to the design and layout of Harbour View, which incorporates significant portion of glazing and balconies on its western elevation of Harbour View and significantly impacts the development potential of the subject site.
- 11.7.28. Section 3.2 of the Building Height Guidelines note that where a proposal may not be able to fully meet all the requirements of the daylight provisions, 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. The applicants Design Appraisal report notes that any development on the site has the potential to overshadow Harbour View and that the proposed scheme provides improvements over the baseline mirror image, whilst addressing the various site constraints and provides a balance between BRE guidelines and placemaking.
- 11.7.29. The concerns of the planning authority and the third parties regarding undue overshadowing are noted and it is acknowledged that any redevelopment of the subject site would create the potential for an overshadowing impact on the adjacent Harbour View. The proposed development is located on an infill site within the existing urban area and in my view the redevelopment of the site would significantly contribute to the consolidation of the urban environment and improve the visual amenity of the streetscape. It is also noted that the BRE guidelines are advisory and not statutory, therefore, flexibility in its standards are acceptable.
- 11.7.30. In conclusion, having regard to the site's location within an existing built up urban area, the Major Town Centre zoning objective for the site, the design and layout of the proposed scheme, and the significant benefits the proposed development would have

on the vitality of Dun Laoghaire town centre and seafront. It is my opinion that the proposed level of overshadowing is considered acceptable in this instance and in accordance with the provisions of the Building Height guidelines.

Internal Daylight and Sunlight

- 11.7.31. An internal Daylight and Sunlight Report was submitted which assessed access to daylight and sunlight for the proposed development. With regard to access to adequate daylight / sunlight for the proposed development the guidelines set minimum values for Average Daylight Factor (ADF) of 2% for kitchens, 1.5% for living rooms and 1% for bedrooms. With respect to ADF the study found that of the 223 no. rooms assessed 198 no. or 89% would reach the BRE standard.
- 11.7.32. It is noted that the assessment was carried out at all floor levels. Details of each room assessed are included in Appendix D of the study. It is noted that the Living / Kitchen / Dining rooms including first floor Room Ref. R3 with an ADF of 0.52, third floor Room Ref R3 with an ADF of 0.85 and third floor Room Ref R5 with and ADF of 0.81 are significantly below the BRE standard.
- 11.7.33. The analysis also assessed for Daylight Distribution (DD) for the proposed scheme, which found that of the 223 no. rooms assessed 188 no. or 84% would receive adequate levels of daylight. It is noted from the information provided in Appendix that the majority of the rooms which received a poor distribution (below BRE standard) are generally located at first to third floor level of both Buildings.
- 11.7.34. Annual Probable Sunlight Hours assessment has also been undertaken for 63 no. main living rooms with windows orientated 90 degrees of due south. It found that of 35 no. or 56% of these rooms reached the BRE standard. The applicant notes that the majority of shortfalls are located within Building 01 as they are limited by Building 02 which are located to the south.
- 11.7.35. It is noted that all rooms within the scheme do not achieve the standards set out in the BRE. However, as noted above the Building Height guidelines allow for flexibility in daylight standards subject to securing comprehensive urban regeneration and or an effective urban design and streetscape solution. In my view the proposed design solution is appropriate for this infill site and the redevelopment of this site would

consolidate the urban environment and improve the visual amenities of the seafront. Therefore, having regard to the sites urban location and proximity to the significant amenity of Dun Laoghaire harbour and town centre, it is considered that the residential amenity of future occupants would not be unreasonably compromised in terms of loss of daylight or overshadowing and the proposed level of ADF is considered acceptable in this instance.

Overbearing Impact

- 11.7.36. The planning authority consider that having regard to the height of Building 01 it would constitute a visually overbearing feature when viewed from the private amenity areas of Harbour View. Concerns have also been raised by third parties that the proposed development would have an overbearing impact.
- 11.7.37. As noted above the site is bound to the west by 3-storey over basement dwellings on Charlemont Terrace, 2-storey dwellings on Charlemont Avenue and Charlemont Mews. Having regard to the stepped approach to height within the scheme, the separation distances from the adjacent properties to the west and south-west and to the urban location, it is my view that the proposed development would not result in an overbearing impact of these properties.
- 11.7.38. As noted above, there is a stepped approach to height within the scheme with the 13th storey element located in the north east portion of the site. This element is located c. 11m from the western elevation of Harbour View apartments, which is 6-7 storeys in height. It is my view that having regard to the nature of the adjoining residential development and the design and layout of the proposed development, it would not result in an overbearing impact on Harbour View.

Conclusion

- 11.7.39. As outlined above, it is my view that the proposed development represents an appropriate design response to the site's context. It is also noted that the subject site is identified in the Urban Framework Plan as a development site with the potential to accommodate a building of scale. Having regard to the design of the proposed development which provides 2 no. separate buildings, with a central courtyard it is considered that the proposed height, design and layout and separation distances

ensure the development would not result in an overbearing impact and would improve on the indicative layout as provided in the Urban Framework Plan. It is considered that any potential undue overlooking, as outlined above, could be addressed by way of condition and implementation of the proposed mitigation measures outlined by the applicant. The potential for overshadowing of Harbour View is acknowledged. It is also noted that the indicative layout as outlined in the Urban Framework Plan and the mirror image assessment would also result in overshadowing of Harbour View. In my opinion the indicted level of overshadowing is considered acceptable having regard to the high-quality contemporary design of the scheme, the sites urban location and Major Town Centre zoning objective and the schemes contribution to the consolidation of the streetscape and urban environment.

11.8. ***Built Heritage***

- 11.8.1. Concerns have been raised by the planning authority, The Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media, An Taisce and third parties that the proposed building development would have a negative impact on the historic skyline of Dun Laoghaire and on the setting of the adjacent protected structures.
- 11.8.2. The concerns regarding the impact of the proposed height on the skyline of Dun Laoghaire have been addressed in Section 11.6 Height above. It is acknowledged that Dun Laoghaire has largely retained a unique hierarchy whereby civic buildings and church spires have pre-eminence on the skyline. However, it is my view that Dun Laoghaire Harbour has the capacity to absorb the proposed height and that the proposed development would have a minimal impact on the visual amenity of the seafront when viewed from middle or long distance views and from a majority of locations within the town centre. It is also my opinion, that the proposed contemporary development should be viewed in the changing character of Dun Laoghaire and in the context of national guidance to increase residential densities.
- 11.8.3. There are no protected structures located in the site and the site is not located in or adjacent to an Architectural Conservation Area. To the west the site is bound by Charlemont Terrace which comprises a row of 6 no. protected structures (RPS ref.520, 521, 522, 526, 531 and 535) and to the south west the site is bound by Charlemont

Avenue which comprises a row of 7 no. protected structures (RPS ref. 560, 567, 579, 588, 603, 615 and 625).

- 11.8.4. As noted above permission was previously refused on the site under PL06D.226077, for the construction of 80 no. apartments and 2 no. retail units in a 6 – 8 storey building over 2 no. basement levels of car parking. The first reason for refusal considered that due to the sites sensitive and prominent position on Crofton Road and adjacent to a terrace of protected structures. The proposed development, by reason of its scale, bulk, massing and, in particular, the projecting building line forward of Charlemont Terrace, would constitute an overly dominant and oppressive appearance on the streetscape and would, therefore, seriously injure the visual amenities of the area.
- 11.8.5. The applicants Architectural Heritage Impact Assessment notes that Charlemont Terrace was constructed in the early 1840's and consists of 6 no. 3-storey over basement 2-bay houses. The facades are rendered and painted with a parapet to conceal the roof. The gable end of no. 6 Charlemont Terrace is located at the western sit boundary. It is noted that this building is in commercial use. There is a communal car parking area provided to the front of the dwellings. The boundary with Crofton Road comprises a cast iron railing on a low plinth wall. Access to the car parking area is available directly from Crofton Road and from an entrance on Charlemont Avenue. There are 6 no. mews dwellings located to the rear of Charlemont Terrace, with access from Charlemont Avenue. The mews dwellings are 2-storeys in height. The rear of 1 no. mews dwelling adjoins the sites western boundary. The mews dwellings are not protected. Charlemont Avenue comprises a terrace of 7 no. protected structures. The dwellings are single storey over basement with steps up to the front door. The rear garden of 1 no. dwelling (no.1 Charlemont Avenue) is bound by the western boundary of the subject site.
- 11.8.6. The applicants Architectural Heritage Impact Assessment notes that the site is located in an area of transition between the older residential buildings to the west and the newer commercial and residential buildings to the east. The proposed development seeks to make the transition in height and building line in a series of 3 no. stages, with a graduation of height that takes Charlemont Terrace as the low point and Harbour View as the high point. It is stated that the first 2 stages from Charlemont Terrace make an easy transition in height and stepping forward of the building line, while the

third stage is at a sufficient separation from Charlemont Terrace that it does not crowd the protected structures.

- 11.8.7. Section 8.2.11.2 (iii) Development in Proximity to a Protected Structure of the development plan states that the overall guiding principle for proposed developments will be the provision of a high quality design which both respects and compliments the protected structure and its setting. The plan sets out a number of criteria for assessing the potential impact on a protected structure including the proximity and potential impact in terms of scale, height, massing, and alignment on the Protected Structure.
- 11.8.8. The proposed 5-storey element of Building 01 is c.15.2m in height and is located between 0.3m and 3m from the boundary with no. 6 Charlemont Terrace and c. 3m from the gable wall of the protected structure, which is c. 12m in height (from street level). The vehicular access to the subject site is located adjacent to the western boundary with no. 6 Charlemont Terrace and is located at the ground and first floor level of the 5-storey element of Building 01. A roof terrace is proposed above the 5-storey element on the western elevation, adjacent to the protected structure. As noted above, there is a stepped approach to the height. In this regard the 6th floor level of Building 01, which is c. 19m in height, is set back 7m from the western boundary and the 7th to 12th floor levels which are c. 42m in height, set back c. 28m from the western boundary. It is my view, that the stepped approach to height provides an appropriate transition at this location between the protected structures to the west and the contemporary 6/7 storey Harbour View development to the east.
- 11.8.9. The front building line of the 5-storey element of Building 01 respects that of the protected structures. As the height of the development increases the building line projects forward towards Crofton Road. In this regard the building line of the 6-storey element projects 3m beyond the established building line and the building line of the 7 – 12 storey element projects c. 9m beyond the building line of the protected structure.
- 11.8.10. The 13-storey element of Building 01 is set back 8m -12m from Crofton Road and 28m from no. 1 Charlemont Terrace. In my view the proposed transition in height and building line are appropriate having regard to the site's urban context on the seafront in Dun Laoghaire and that a sufficient separation distance is provided between the 13-storey element and Charlemont Terrace to ensure the development does not

overwhelm the protected structures. It is noted that the report of the planning authority's Conservation Officer raises no objection to the relationship of the development with Charlemont Terrace.

11.8.11. Charlemont Avenue to the south west of the site comprises a terrace of 7 no. protected structures. Building 02 ranges in height from 8-9 storeys (21m – 24m). It is located a minimum of 11m from the rear boundary wall of no. 1 Charlemont Avenue (protected structure) and 30m from the rear elevation of the house. In my view, having regard to the proposed height and separation distances the proposed development would not negatively impact on the setting of the protected structures on Charlemont Avenue.

11.8.12. Concerns were also raised by the Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media regarding a potential negative impact on the setting of the Town Hall (protected structure). The subject site is located 150m north west of the Town Hall and is separated from the protected structure by the 6 – 7 storey Harbour View development. Having regard to the contemporary urban development along Crofton Road and separation distance between the sites, it is my view that the proposed development would not negatively impact on the setting of the Town Hall.

11.8.13. In conclusion, it is my view that the design approach is well considered and has regard to the site's urban context on the seafront in Dun Laoghaire. The redevelopment of this underutilised brownfield site is welcomed and in my opinion the development represents a high-quality, contemporary scheme, which includes variety in height and scale that would positively contribute to the streetscape and the consolidation of the urban environment.

11.9. ***Open Space / Landscaping***

Microclimate

The applicants Wind Microclimate Modelling report provides a number of comments. The following are considered to be relevant: -

- The proposed development would produce a high-quality environment that is attractive and comfortable for pedestrians of all categories.
- Wind speeds are shown to be within tenable conditions.

- The proposed development does not impact or give rise to negative or critical wind speed profiles.
- The areas all around the development can be considered suitable for long term sitting.

The report also notes that some higher velocity and funnelling effects are found, depending on the wind direction, on the main roads around the development, in-between the 2 no. buildings and under the tunnel of Building 01. Some recirculation effects are also found at the corner of the buildings. However, these conditions are not occurring at a frequency that would compromise the pedestrian comfort. It is considered that the planting of trees would mitigate these effects. I am satisfied that subject to mitigation measures the ground floor level would achieve a high-quality environment for the intended use and would not introduce any critical wind impact on the surrounding areas or existing buildings.

Public Open Space

- 11.9.1. The proposed development provides a total of 681sqm of public open space. Building 01 is set back to provide a public plaza onto Crofton Road. This area comprises hard and soft landscaping and seating associated with the proposed café unit. It is noted that additional linear areas of public open space / landscaping are proposed along the western boundary of the site with the vehicular route and along the western and southern elevations of Building 02. As noted above the provision of a public plaza along the sites boundary is welcomed and it is my view that it would enhance the public realm and this location and support the objectives outlined in the Urban Framework Plan. Notwithstanding this, it is noted that no detailed analysis of access to daylight or sunlight has been submitted for the plaza. Due to the height of Building 01 (c. 42m), the limited depth of the plaza, which varies from 8m - 12m, and the northern orientation of the site, it is my view that a significant portion of this area would not receive any sunlight on 21st March. It is noted that the planning authority raised concerns regarding the limited size of the area of public open space and the potential overshadowing of the public open space and noted that a contribution in lieu of public open space would be acceptable. However, having regard to the site's location adjacent to Dun Laoghaire Harbour, I have no objection in principle to the location of the public plaza.

Communal Open Space

- 11.9.2. Appendix 1 of the Apartment Guidelines requires a minimum of 5sqm of communal open space per 1-bed apartment and 7sqm per 2-bed (2 person) apartment. Therefore, there is a requirement for 554sqm of communal amenity space. It is proposed to provide c. 765sqm of communal open space within the scheme. 378sqm is provided at ground floor level between the 2 no. buildings, adjacent to a hard-landscaped area which accommodates 3 no. car parking spaces, 2 no. motorbike spaces and bicycle parking. The open space is accessed from both the car parking area (western boundary) and from a 1.8m wide pedestrian gate along the proposed public walkway / route along the sties eastern boundary. Due to a level difference, access to the communal open space from the eastern boundary is stepped.
- 11.9.3. No detailed analysis of access to daylight or sunlight has been submitted for the central area of communal open space. The planning authority raised concerns regarding the limited size of the internal courtyard and the potential for overshadowing from the height of the blocks. The height of Building 02, the limited depth of the space and the northern orientation of the communal area are noted and I would agree with the planning authority's concerns that a significant portion of this area may not receive any sunlight on 21st March. However, having regard to the site's urban location and proximity to the significant amenity of Dun Laoghaire Harbour, I have no objection in this instance to the quality or quantity of the ground floor level communal open space.
- 11.9.4. The scheme also incorporates 4 no. roof terraces, in this regard 3 no. terraces are proposed at Building 01 with 80sqm at 5th floor level, 127sqm at 8th floor level and 58sqm at 12th floor level and 1 no. 122sqm terrace is proposed at 8th floor level at Building 02. Concerns are raised by third parties and the planning authority regarding the usability of these spaces due to their height, and open and exposed nature in close proximity to the coast. The Design Rationale – Landscape Architecture report notes that wind mitigation including vegetation and glass and perforated screens would be provided at the roof top terraces. It is noted that the Wind Microclimate Modelling report does not include an analysis of the roof top terraces. I have no objection to the quantity of communal open space provided at rooftop level, however, it is recommended that a condition be attached to any grant of permission that planting and appropriate

measures be provided to the roof top terraces to mitigate against any micro-climate effects.

- 11.9.5. In conclusion, having regard to the sites close proximity to Dun Laoghaire Harbour which is a significant area of public open space and amenity that could be utilised by future residents I have no objection in principle to the quality and quantity of communal open space provision. It is also my view that the provision of a central courtyard / area of communal open space is an improvement on the indicative layout provided in the Urban Framework Plan.

Private Open Space

- 11.9.6. Appendix 1 of the Apartment Guidelines sets out minimum standards for private open space and it is noted that 87 no. of the 102 no. units proposed reach or exceed these standards. 15 no. apartments, fronting onto Crofton Road do not have any associated private open space. The planning authority raised concerns that due to the limited usability of the communal open space, as outlined above, it is not an appropriate alternative to the provision of private open space. The applicants Housing Quality Assessment states that balconies have not been provided on the northern façade as an architectural response to the adjacent protected structures of Charlemont Terrace. It is noted that Juliet balconies have been provided to allow for opening doors and views of the sea. SPPR8 of the Apartment Guidelines allows for flexibility in relation to the provision of a proportion of the private amenity space associated with individual units. The northern orientation of these units is noted, however, having regard to the significant amenity value / views of the harbour and sea and the limited number of units (15 no.) I have no objection in principle to the provision of Juliet balconies in this instance.

Notwithstanding the above, it is noted that section 8.2.8.4 of the development plan refers to Table 8.2.5: Balconies / Winter Gardens: Minimum Private Open Space Standards which requires 6sqm private open space for 1 bed apartments and 8sqm of private open space for 2-bed apartments. Therefore, the proposed development is not in accordance with development plan standards. The issue of material contravention is addressed below in Section 11.14.

Trees

11.9.7. The applicants Arboricultural Report notes that all 7 no. trees on site would be lost to facilitate the development and that many of these trees are already compromised and their loss would be mitigated by the landscaping proposals, which includes 133 no. new trees. It is noted that 2 no. Sycamore trees on the public road would suffer some degree of disturbance to facilitate the surface water connection to the existing public network located on the northern side of Crofton Avenue. It is noted that 1 no. tree (ref. no. 485) is already of poor quality. The report recommends further consideration of the alignment of the proposed infrastructure toward this tree, to mitigate against potential damage to other adjacent trees. It is recommended that if permission is being contemplated that a condition be attached in this regard. It is noted that the planning authority's Parks Department raised no objection to tree loss.

11.10. ***Permeability and Access***

11.10.1. It is proposed to alter the existing access / egress arrangements to the site and provide a new 6m wide vehicular access onto Crofton Road, at the north west corner of the site. The vehicular route, which is located along the western site boundary adjacent to no. 6 Charlemont Terrace (protected structure) provides a right of way to the St. Michael's Hospital site. The 6m wide shared surface is bound by a grass verge in parts.

11.10.2. It is noted that Section 2.6 of the Dun Laoghaire Urban Framework Plan sets out an objective to '*seek to use existing car park ramp to access neighbouring development to minimise impact on frontage*', in this regard the existing access ramp which provides access to Harbour View. The applicants Statement of Consistency notes that it is not intended to utilise the existing access to Harbour View and that the vehicular route from Crofton Road would be a shared surface, to ensure slow speeds within the site. The location of the proposed access is justified by the presence of a large tree adjacent to the Harbour View entrance which would obstruct sightlines. As there is an existing sightlines. As there is an existing access to the site from Crofton Road and Harbour View is in private ownership, I have no objection in principle to the provision of a separate vehicular access to the site.

11.10.3. In addition to the vehicular route, it is proposed to provide a c. 3m wide pedestrian walkway along the eastern boundary with Harbour View which links the proposed

public plaza on Crofton Road to St. Michael's Hospital site. From the information submitted it would appear that the proposed walkway runs parallel to the existing access to Harbour View and that the existing high-level wall would be retained to separate the two sites. The wall appears to vary in height from c. 3m at the northern site boundary with Crofton Road to c. 1.5m at the southern boundary with St. Michael's Hospital.

11.10.4. A number of third parties have raised concerns regarding the proposed pedestrian route through the site and consider that due to its location and limited width it would be under-utilised and would result in anti-social behaviour. The applicants Housing Quality Assessment states that the residential units on the eastern elevation would provide overlooking of the walkway. I have concerns that due to the relatively narrow width of the walkway and the proposed louvers / opaque glazing treatment of the windows of the eastern elevation that the walkway would not be adequately overlooked by residents. Having regard to the level difference between the pedestrian route and the ground floor level of the buildings, the provision of a high wall at the boundary with Harbour View, the lack of connectivity with Harbour View and the provision of an additional pedestrian route along the sites western boundary, I agree with concerns that the walkway could be underutilised and result in anti-social behaviour. However, as outlined in section 11.1 – Zoning, it is my recommendation that the residential amenity uses at ground floor level be relocated to first floor level and that the ground floor of Building 01 accommodate a variety of commercial / retail uses. This amendment would result in a more active frontage along the pedestrian walkway.

11.10.5. If the Board considered the proposed uses on site appropriate, it is my opinion that this pedestrian route should be incorporated into the communal open space and that public access / permeability through the site can be provided along the western site boundary only.

11.10.6. The planning authority also raised concerns that the proposed layout fails to successfully demonstrate the provision of permeability and connectivity between adjacent developments and greater integration with the town centre. In my view the retention of a link through the site towards St. Michael's Hospital is welcomed and

allows for future connectivity towards the town centre. It is considered that the site layout is in accordance with the objectives of the Urban Framework Plan to improve linkages from the seafront to the town centre.

11.11. *Transportation and Car Parking*

- 11.11.1. The subject site is highly accessible by public transport. It is located c.100m from the Dun Laoghaire Dart Station and there are 11 no. bus routes located within c. 400m of the site. It is proposed to provide a total of 150 no. bicycle parking spaces at the ground floor level of Building 02 to serve the residential units, 26 no. visitor bicycle parking spaces are provided within the courtyard and 8 no. spaces are proposed along the northern site boundary at Crofton Road, adjacent to the café unit.
- 11.11.2. Concerns are raised that the proposed development does not overcome the previous reason for refusal on the site (PL06D.226077) which considered that the loss of the existing car park would result in an under provision of car parking space in the area to serve the proposed and existing developments would add to traffic congestion.
- 11.11.3. The applicants Engineering Report includes a Traffic Impact Assessment section. However, it does not include any details regarding the current number of spaces available with the existing car park on site or the occupancy of these spaces. In addition, no details regarding available car parking in the area have been provided. Notwithstanding this, it is noted that there are a number of public car parks and on-street car parking spaces available within Dun Laoghaire. A vehicular route is retained within the site to allow for drop off / collection within St. Michael's Hospital. This is in addition to an existing car park and drop off area to the hospital from the town centre, via George's Street Lower. There is no evidence to suggest that the loss of spaces would result in traffic congestion. It is my view that sufficient car parking is available within the town centre and on the surrounding road network and that the loss of the existing car park would not result in increased congestion or an under provision of car parking in Dun Laoghaire. Having regard to the Major Town Centre zoning objection for the site, I have no objection in principle to the redevelopment of the site and the associated loss of car parking. It is also noted that the previous refusal on the site (PL06D.226077) pre-dates national policy in particular National Planning Framework,

2040 and the Design Manual for Urban Roads and Streets, 2019 to reduce the reliance on private car and support a modal shift towards more sustainable travel.

11.11.4. Third parties have also raised concerns that the limited number of car parking spaces provided within the scheme would result in overspill car parking on the surrounding road network, which it is stated is already at capacity. It is noted that the planning authority's Transportation Planning Section recommend the provision of 0.5 no. spaces per unit and that permission should be refused on the basis of inadequate residential car parking to serve the proposed development.

11.11.5. Table 8.3.2 of the development plan sets out car parking standards which permit 1 no. space per 1-bed unit and 1.5 no. spaces per 2-bed unit. The development plan includes a caveat that reduced car parking standards for any development may be acceptable dependant of specific criteria including the site location, proximity to public transport and the nature and characteristics of the site. The proposed development includes the provision of 3 no. car parking spaces. These spaces are provided at ground floor level between the 2 no. blocks. 2 no. spaces would be assigned to a car club and would be available to residents of the scheme by pre-booking with the management of the development. I am satisfied that the provision of 3 no. spaces is acceptable in this instance and complies with the standards set out in SPPR8 (iii) the Apartments Guidelines which states that there shall be a default of minimal or significantly reduced car parking provision for BRT developments. Having regard to the purpose built and professionally managed nature of the scheme, the sites urban location within the town centre, its proximity to a variety of public transport modes and the restricted nature of on-street car parking on the surrounding streets, it is my view that the proposed development would not result in an unacceptable level of overspill car parking onto the surrounding road network and should overspill car parking become an issue it could be managed by the planning authority through the introduction of more restrictive measures on the surrounding public road.

11.11.6. The applicants Statement of Material Contravention also sets out a justification for the proposed level of car parking. However, having regard to the above it is my view that the proposed level of car parking is not a material contravention of the development plan. It is noted that the planning authority have not raised the issue of material contravention with regard to car parking provision.

- 11.11.7. Having regard to the existing car park use on site, which generates vehicular movements, and the limited number of car parking provided within the scheme, it is my view that the operational phase of the proposed development would not impact on the capacity of the surrounding road network. It is noted that the submission from Transport Infrastructure Ireland raised no objection to the proposed development.
- 11.11.8. Concerns were also raised regarding emergency access within the site. Having regard to the site layout which includes a vehicular route through the site and between the blocks it is my opinion that site layout can accommodate emergency access.
- 11.11.9. The red line boundary includes a section of public road and a letter of consent from Dun Laoghaire County Council has been submitted with the application. The works to the public road include modifications to the configuration of the carriageway and footpath to facilitate the implementation of a new vehicular access onto Crofton Road. The planning authority raised no objection to the proposed works.

11.12. **Water Services**

- 11.12.1. The proposed development would be connected to the existing public water mains and public sewer. The existing St. Michael's Hospital currently discharges through the subject site to the public combined sewer on Crofton Road. The proposed works include diverting this drain under the vehicular route, along the site's western boundary. Irish Water acknowledged that a confirmation of feasibility was issued to the applicant for connections to the public network. It is noted third parties have raised concerns regarding the capacity of the existing system to accommodate the proposed development. Having regard to the information submitted I am satisfied that there are no infrastructural aspects to the proposed development that present any conflicts or issues to be clarified.
- 11.12.2. A Site-Specific Flood Risk Assessment was submitted which considered the potential sources of flooding. The OPW maps indicate that the site is located outside of a flood zone and that there is no record of historic flood on the site.
- 11.12.3. With regard to the potential for pluvial flooding on or within the vicinity of the site it is noted that there is no evidence of surface water flooding in the vicinity of the site that would be likely to have an impact on the development. The design of the surface water

drainage network for the proposed development consists of a piped gravity system. It is proposed to discharge the surface water run off to the existing public system. It is noted that the existing site comprises a hardstanding surface car park, with minimal planting areas. The applicants Engineering Planning Report notes that run off rates would be reduced by a combination of measures including attenuation, green roofs, filter drains and permeable paving. An overland flow route is proposed along the eastern and western site boundaries via the vehicular and pedestrian routes would be channelled towards Crofton Road, in a similar way to the existing situation. A Surface Water Audit was submitted with the application which outlines a number of recommendations. The applicant has stated in the Engineering Planning Report that were feasible these recommendations would be incorporated into the scheme. Having regard to the information submitted the risk from pluvial flooding is sufficiently low to be acceptable.

11.12.4. The FRA further notes the site is not located near areas at risk of coastal, fluvial, groundwater or human / mechanical flooding. Having regard to the information submitted I am satisfied that the proposed arrangements are sufficient to cater for surface water run-off relating to the site and would not result in a flood risk to the site or of adjacent properties. It is noted that the planning authority raised no objection to the proposed surface water drainage proposals.

11.12.5. The submission from Inland Fisheries Ireland states that Ringsend Wastewater Treatment Plant is currently working at or beyond capacity and will not be fully upgraded until 2023. It is essential that local infrastructural capacity is available to cope with increased surface and foul water generated by the proposed development in order to protect the ecological integrity of any receiving aquatic environment. The site is zoned for development through the land use policies of the Dun Laoghaire Rathdown Development Plan 2016 - 2022. This statutory plan was adopted in 2016 and was subject to AA by the planning authority, which concluded that its implementation would not result in significant adverse effects to the integrity of any Natura 2000 areas. I note also the development is for a relatively small residential development providing for 102 no. units on serviced lands in an urban area, which is currently in use a surface car park. As such the proposal will not generate significant demands on the existing municipal sewers for foul water and surface water.

Furthermore, I note upgrade works have commenced on the Ringsend Wastewater Treatment works extension permitted under ABP - PL.29N.YA0010 and the facility is subject to EPA licencing and associated Appropriate Assessment Screening. It is also noted that the planning authority and Irish Water raised no concerns in relation to the proposed development.

11.13. ***Other Issues - Construction Phase***

Concerns are raised a third party that insufficient details are provided in relation to the sub-structures referred to in the Outline Construction Management Plan and / or insufficient detail or information in relation to the construction phase operations required to realise such sub-structures. The applicant has submitted a Site Investigation Report which outlines the geology of the site, details of field work carried out to date and details of laboratory work carried out on samples taken from the site. The report provides recommendations regarding foundation design and floor type construction.

With regard to the construction phase it is noted that the proposed scheme does not include a basement level and it is my view that there is nothing unique or particularly challenging about the proposed urban development. Having regard to the information submitted I am satisfied that sufficient detail has been submitted regarding the construction phase of the development.

11.14. ***Material Contravention***

- 11.14.1. As outlined above the proposed development would materially contravene Section 8.2.3.3(iii) – Mix of Units and Section 8.2.8.4 - Minimum Private Open Space Standards of the Dun Laoghaire Rathdown Development Plan 2020. The applicants Material Contravention Statement submitted with the application addresses and provides a justification for these material contraventions.

Mix of Units: Section 8.2.3.3(iii) – Mix of Units requires that larger schemes over 30 units should generally comprise of no more than 20% 1-bed units. The proposed development comprises 80 no. 1-bed units and 22 no. 2-bed units and, therefore, does not accord with the development plan standard.

Private Open Space: Section 8.2.8.4 refers to Table 8.2.5: Balconies / Winter Gardens: Minimum Private Open Space Standards which requires 6sqm private open space for 1 bed apartments and 8sqm of private open space for 2-bed apartments. 15 no. number of units on the northern elevation of Building 01, fronting onto Crofton Road do not have a balcony or terrace and, therefore, do not accord with the development plan.

The applicants Material Contravention Statement also stated that the Board may consider that the proposed development material contravenes the Building Height Strategy set out in Appendix 9 and Table 8.2.4 (car parking standards) of the Dun Laoghaire Rathdown County Development Plan 2016-2022.

Height: The proposed development ranges in height from 5 – 13 storeys. Policy UD6: Building Height Strategy of the development plan requires that developments '*adhere to the recommendations and guidance set out within the Building Height Strategy for the County*'. The Building Height Strategy is set out in Appendix 9 of the Development Plan. Section 4.8 of Appendix 9 notes that this strategy relates to areas not already included within the boundaries of a statutory plan. The site is located within the catchment of the Dun Laoghaire Urban Framework Plan. Therefore, the policies and objectives of this plan are considered applicable in this instance. The Dun Laoghaire Urban Framework Plan does not set out any height limits.

As noted above in Section 11.6, it is my view that the proposed height of the development is not a material contravention of the current development plan or the Urban Framework Plan. While the planning authority consider that the proposed development does not accord with the statutory plans it is noted that they do not consider the proposed height to be a material contravention.

Car Parking: Table 8.3.2 of the development plan sets out car parking standards which permit 1 no. space per 1-bed unit and 1.5 no. spaces per 2-bed unit. The development plan includes a caveat that reduced car parking standards for any development may be acceptable dependant of specific criteria including the site location, proximity to public transport and the nature and characteristics of the site. The proposed development includes the provision of 3 no. car parking spaces.

As noted above in Section 11.11, it is my view that the proposed level of car parking is not a material contravention of the development plan. It is noted that the planning authority have not raised the issue of material contravention with regard to car parking provision.

11.14.2. Section 37(2)(b) of the Planning and Development Act, 2000 (as amended) states that where a planning authority has decided to refuse permission on the grounds that a proposed development materially contravenes the development plan, the Board may only grant permission in accordance with *paragraph (a)* where it considers that: -

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

11.14.3. Having regard to the characteristics of the proposed development, Section 37 (2) (b) (i) and (iii) are considered relevant in this instance.

11.14.4. **Section 37 (2) (b)(i)**

The proposed development falls within the definition of strategic housing as set out in the Planning and Development (Housing) and Residential Tenancies Act 2016 and by the government's policy to provide more housing set out in Rebuilding Ireland – Action Plan for Housing and Homelessness issued in July 2016, the proposed material contravention is justified by reference to section 37(2)(b)(i) of the act.

11.14.5. **Section 37 (2) (b)(iii)**

The proposed material contravention to the **Housing Mix** is justified by reference to: -

- SPPR8(i) of the Sustainable Urban Housing: Design Standards for New Apartments, 2020 which states that no restrictions on dwelling mix and all other requirements of these Guidelines shall apply for Build to Rent developments.

The proposed material contravention to the ***Private Open Space*** provision is justified by reference to: -

- SPPR8(ii) of the Sustainable Urban Housing: Design Standards for New Apartments, 2020 which states that flexibility shall apply in relation to the provision of a proportion of the private amenity space associated with individual units.

11.14.6. ***Conclusion***

Having regard to the provisions of Section 37 (2) (b) of the Planning and Development Act, 2000 (as amended), I consider that a grant of permission, that may be considered to material contravene the Dun Laoghaire Rathdown Development Plan 2016-2022, would be justified in this instance under sub sections (i) and (iii) having regard to the Planning and Development (Housing) and Residential Tenancies Act 2016, by government's policy to provide more housing, as set out in Rebuilding Ireland – Action Plan for Housing and Homelessness issued in July 2016, the National Planning Framework, 2018, the Regional and Economic Strategy for the Eastern and Midland Region 2019-2031, Urban Development and Building Heights Guidelines, 2018 and Sustainable Urban Housing: Design Standards for New Apartments, 2020.

12.0 **Chief Executives Recommendation**

12.1. As noted above the planning authority recommended that permission be refused for 3 no. reasons. In the interest of clarity, the reasons for refusal are addressed outlined below.

12.2. ***Visual and Residential Amenity***

12.2.1. The planning authority's first reason for refusal considered that the proposed development, by reason of its overall height, density, scale, and massing, fails to have regard to its surrounding context, would have a detrimental impact on the character of the surrounding area, would seriously injure the visual and residential amenities of

properties located within its immediate vicinity by reasons of overshadowing, overlooking, by being visually overbearing and thereby constitutes overdevelopment of the site. Furthermore, having regard to the window treatments along the side elevation of the proposed Building 01, the proposed development would result in substandard residential accommodation for future occupiers of the proposed development.

12.2.2. As outlined above it is my opinion the proposed development represents an appropriate design response to the site's context. It is considered that the proposed height, design and layout of the development and separation distances provided the development are appropriate for this urban site and would not result in an overbearing impact. It is considered that any potential undue overlooking of adjacent properties could be addressed by way of condition, in this regard screening and revised window placement, this condition would also address concerns regarding future residential amenity. The potential for overshadowing of Harbour View is acknowledged and in my opinion is considered acceptable having regard to the design and layout of Harbour View and its proximity to the site boundary, the sites Major Town Centre zoning objective, the high quality contemporary design of the scheme and the sites urban location in the centre of Dun Laoghaire.

12.2.3. In conclusion I am satisfied that the proposed development represents a reasonable response to its context and is acceptable in this instance.

12.3. ***Zoning Objective***

12.3.1. The planning authority's third reason for refusal considered that the proposed development fails to provide an appropriate mix and balance of uses and activities, given the MTC zoning and fails to provide the mix of uses and activities appropriate to the Seafront Quarter as envisioned in the Dun Laoghaire Urban Framework Plan.

12.3.2. As noted above in Section 11.1 – Zoning, I agree with the planning authority's concerns regarding the mix of uses on the site. However, in my view this concern could be addressed by way of condition. In this regard the ground floor kitchen / lounge area (85.7sqm) and attached games room area (72.8sqm) at the ground floor of Building 01 should be replaced with retail / commercial unit(s) with direct frontage onto the

proposed pedestrian walkway along the eastern site boundary. The residential amenity spaces omitted should be relocated to the first-floor level and generally replace units B1_01.05 and B1_01.06. It is my opinion that the provision of additional ground floor retail / commercial space would ensure the development was in accordance with principles of the zoning objective and the vision for the site as set out in Appendix 12 – Dun Laoghaire Urban Framework Plan.

- 12.3.3. In conclusion I am satisfied that, subject to conditions, the proposed scheme would provide an appropriate mix of uses in accordance with the Major Town Centre zoning objective.

12.4. ***Built Heritage***

- 12.4.1. The planning authority's second reason for refusal considered that the proposed development, by reason of its overall height, scale and massing, would adversely impact on the setting of these protected structures, and would be visually injurious to the amenities of the area. Furthermore, Dun Laoghaire has largely retained a unique hierarchy whereby civic buildings and church spires have pre-eminence on the skyline.
- 12.4.2. As noted above in Section 11.8, it is my view that the proposed transition in height and building line are appropriate and the 13 storey element is sufficiently separated from Charlemont Terrace and Charlemont Avenue, that it does not overwhelm the protected structures. I am satisfied that the proposed development represents a well-considered and reasonable design response to its urban context and would not adversely impact on the setting of the protected structures or be visually injurious to the amenities of the area.
- 12.4.3. As noted above in Section 11.6 it is acknowledged that the proposed development does not comprise a civic or public building and would result in a new feature in the skyline, however, it is my view that the proposed height, would not detract from the existing urban skyline or compete with the established landmark structures, when viewed from mid to long distance views (the piers) and it is my opinion that Dun Laoghaire is capable of absorbing a building of this height.

13.0 Environmental Impact Assessment (EIA) Screening

- 13.1. The application is accompanied by an EIA Screening report which has regard to Schedule 7A of the regulations. A third party raised concerns that the EIA Screening Report does not comply with the requirements of the Planning and Development Act, the Planning and Development Regulations and the EIA Directive in circumstances where no consideration has been given to the nature and / or extent of the excavation works required to implement the proposed development, including impact of said works, which involve rock breaking working, on human health.
- 13.2. As noted above in Section 11.13 - Other Issues a Site Investigation Report was submitted and includes recommendations regarding the proposed foundation design and floor type construction. Section 5 of the Outline Construction Management Plan provides details for the substructure and it is noted that the proposed foundation layouts for both Buildings are provided on Drawings D1855-S-01, D1855-S-02 and D1855-S-03. Section 6 of the report outlines the Environmental Issues potentially arising from the development and Section 6.6 of the report outlines how excavations and groundworks would be carried out. The proposed construction practices outlined in the documentation submitted are standard practices for urban sites. I am satisfied that sufficient consideration has been given to the nature and / or extent of the excavation works required to implement the proposed development and there are no aspects of the construction phase that present any conflicts or issues to be clarified.
- 13.3. It is noted that a third party has also raised concerns that the EIA Screening Report and other information provided by the applicant does not comply with the mandatory requirements of the Planning and Development Regulations and the EIA Directive insofar as it does not include all the information / statements required under the Regulations.
- 13.4. I have completed a screening determination as set out in Appendix A, and recommend to the Board that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an environmental impact assessment report would not therefore be required. The conclusion of this assessment is as follows:

Having regard to: -

- nature and scale of the proposed development, which is below the threshold in respect of Class 10(iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- the location of the site on lands zoned MTC to protect, provide and or improve Major Town Centre facilities in the Dun Laoghaire Rathdown Development Plan 2016-2022. The development plan was subject to a strategic environmental assessment in accordance with the SEA Directive (2001/42/EEC).
- The location of the site within the existing built up urban area, which is served by public infrastructure, and the existing pattern of development in the vicinity.
- (e) the location of the development outside of any sensitive location specified in article 299(C)(1)(v) of the Planning and Development Regulations 2001 (as amended)
- (e) The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003),
- (f) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended), and
- (g) The features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the Construction Management Plan, Construction Environmental Management Plan, Outline Construction and Demolition Waste Management and Outline Operational Waste Management Plan.

It is considered that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an environmental impact assessment report would not therefore be required.

14.0 **Appropriate Assessment**

- 14.1. The proposed development would not be located within an area covered by any European site designations and the works are not relevant to the maintenance of any such sites.

- 14.2. The applicants AA Screening report notes that there is no direct hydrological connection to any designated sites. There is an indirect pathway via the existing combined sewer on Crofton Road to the Ringsend Wastewater Treatment Plant.
- 14.3. The following 17 no. European sites are located within a 15km radius of the site and separation distances are listed below.

<i>European Site</i>	<i>Site Code</i>	<i>Distance</i>
South Dublin Bay and River Tolka Estuary SPA	004024	0.6km
South Dublin Bay SAC	000210	1.1km
Rockabill to Dalkey Island SAC	004172	3.1km
Dalkey Islands SPA	003000	3.3km
North Dublin Bay SAC	000206	5.6km
North Bull Island SPA	004006	5.6km
Howth Head SAC	000202	8.1km
Howth Head SPA	004113	9.2km
Ballyman Glen SAC	000713	9.9km
Ballyman Glen SAC	000713	9.9km
Knocksink Wood SAC	000725	10.2km
Baldoyle Bay SAC	000199	10.8km
Bray Head SAC	000714	11.4km
Wicklow Mountains SAC	002122	11.4 km
Wicklow Mountains SPA	004040	11.7km
Irelands Eye SPA	004117	12.2km
Irelands Eye	002193	12.6km

- 14.4. The qualifying interests for the designated sites outlined above are provided in Table 1 of the Applicants Appropriate Assessment Screening report and the conservation objectives are noted in Section 3.5 of the report.
- 14.5. The designated area of sites within the inner section of Dublin Bay, namely South Dublin Bay SAC, North Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA, North Bull Island SPA are proximate to the outfall location of the Ringsend

WWTP and could therefore reasonably be considered to be within the downstream receiving environment of the proposed development and on this basis these sites are subject to a more detailed Screening Assessment. It is also noted that a third party raised concerns that the proposed development would have a negative impact on Dublin Bay.

- 14.6. I am satisfied that the potential for impacts on all other Natura 2000 Sites can be excluded at the preliminary stage due to the nature and scale of the proposed development, the degree of separation and the absence of ecological and hydrological pathways.

14.7. **Screening Assessment**

The Conservation Objectives and Qualifying Interests of sites in inner Dublin Bay are as follows:

South Dublin Bay and River Tolka Estuary SPA (004024) - c.0.6 km from the subject site.
Conservation Objective – To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.
Qualifying Interests/Species of Conservation Interest: Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046] / Oystercatcher (<i>Haematopus ostralegus</i>) [A130] / Ringed Plover (<i>Charadrius hiaticula</i>) [A137] / Grey Plover (<i>Pluvialis squatarola</i>) [A141] / Knot (<i>Calidris canutus</i>) [A143] / Sanderling (<i>Calidris alba</i>) [A144] / Dunlin (<i>Calidris alpina</i>) [A149] / Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] / Redshank (<i>Tringa totanus</i>) [A162] / Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179] / Roseate Tern (<i>Sterna dougallii</i>) [A192] / Common Tern (<i>Sterna hirundo</i>) [A193] / Arctic Tern (<i>Sterna paradisaea</i>) [A194] / Wetland and Waterbirds [A999]

South Dublin Bay SAC (000210) - c. 1.1km from the subject site.

Conservation Objective - To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.

Qualifying Interests/Species of Conservation Interest: 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]

North Dublin Bay SAC (000206) – c. 5.6 km from the subject site

Conservation Objective - To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.

Qualifying Interests/Species of Conservation Interest: Mudflats and sandflats not covered by seawater at low tide [1140] / Annual vegetation of drift lines [1210] / Salicornia and other annuals colonising mud and sand [1310] / Atlantic salt meadows (*Glauco-Puccinellietalia maritimi*) [1330] / Mediterranean salt meadows (*Juncetalia maritimi*) [1410] / Embryonic shifting dunes [2110] / Shifting dunes along the shoreline with *Ammophila arenaria* [2120] / Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130] / Humid dune slacks [2190] / *Petalophyllum ralfsii* (Petalwort) [1395].

North Bull Island SPA (004006) - c. 5.6 km from the subject site.

Conservation Objective – To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA

Qualifying Interests/Species of Conservation Interest: Qualifying Interests/Species of Conservation Interest: Light-bellied Brent Goose (*Branta bernicla hrota*) [A046] / Shelduck (*Tadorna tadorna*) [A048] / Teal (*Anas crecca*) [A052] / Pintail (*Anas acuta*) [A054] / Shoveler (*Anas clypeata*) [A056] / Oystercatcher (*Haematopus ostralegus*) [A130] / Golden Plover (*Pluvialis apricaria*) [A140] / Grey Plover (*Pluvialis squatarola*) [A141] / Knot (*Calidris canutus*) [A143] / Sanderling (*Calidris alba*) [A144] / Dunlin (*Calidris alpina*) [A149] / Black-tailed Godwit (*Limosa limosa*) [A156] / Bar-tailed Godwit (*Limosa lapponica*) [A157] / Curlew (*Numenius arquata*) [A160] / Redshank (*Tringa totanus*) [A162] / Turnstone (*Arenaria interpres*) [A169] / Black-headed Gull (*Chroicocephalus ridibundus*) [A179] / Wetland and Waterbirds [A999]

14.8. ***Consideration of Impacts on South Dublin Bay SAC, North Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA and North Bull Island SPA***

It is considered that there is nothing unique or particularly challenging about the proposed urban development, either at construction or operational phase.

Surface water from the proposed development will discharge, as it already does in part to the public sewer on Crofton Road. The habitats and species of Natura 2000 sites in Dublin Bay are between 0.6km and 5.6km downstream of the site and water quality is not a target for the maintenance of any of the QI's within either SAC in Dublin Bay. The surface water pathway could create the potential for an interrupted and distant hydrological connection between the proposed development and European sites in the inner section of Dublin Bay. During the construction phase, standard pollution control measures would be put in place. It is noted that a third party raised concerns that the proposed development relies on mitigation measures to screen out the need for a Stage 2 Appropriate Assessment. Pollution control measures are proposed during both construction and operational phases. These measures are standard practices for urban sites and would be required for a development on any urban site in order to protect local receiving waters, irrespective of any potential hydrological connection to Natura 2000 sites. In the event that the pollution control and surface water treatment measures were not implemented or failed I am satisfied that the

potential for likely significant effects on the qualifying interests of Natura 2000 sites in Dublin Bay from surface water run off 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).

The foul discharge from the proposed development would drain, via the public combined sewer, to the Ringsend WWTP for treatment and ultimately discharge to Dublin Bay. There is potential for an interrupted and distant hydrological connection between the subject site and the designated sites in Dublin Bay due to the wastewater pathway.

The submission from Inland Fisheries Ireland states that Ringsend WWTP is currently working at or beyond its design capacity and will not be fully upgraded until 2023. It is essential that local infrastructural capacity is available to cope with increased surface and foul water generated by the proposed development in order to protect the ecological integrity of any receiving aquatic environment.

The subject site is identified for development through the land use policies of the Dun Laoghaire Rathdown Development Plan 2016-2022. This statutory plan was adopted in 2016 and was subject to AA by the planning authority, which concluded that its implementation would not result in significant adverse effects to the integrity of any Natura 2000 areas. I also note the development is for a relatively small residential development providing for 102 no. units, on serviced lands in an urban area. As such the proposal will not generate significant demands on the existing municipal sewers for foul water and surface water. Furthermore, I note upgrade works have commenced on the Ringsend Wastewater Treatment works extension permitted under ABP – PL.29N.YA0010 and the facility is subject to EPA licencing (D0034-01) and associated Appropriate Assessment Screening. It is also noted that the planning authority and Irish Water raised no concerns in relation to the proposed development.

The applicants Hydrological and Hydrogeological Qualitative Risk Assessment which is Appendix 1 of the AA Screening report notes that even without the upgrade of Ringsend WWTP, the peak effluent discharge calculated for the proposed development (2.9 litres/sec) would equate to 0.026% of the licensed discharge. While

the concerns of Inland Fisheries Ireland are noted it is my view that the foul discharge from the site would be insignificant in the context of the overall licenced discharge at Ringsend WWTP, and thus its impact on the overall discharge would be negligible.

The Outline Construction and Demolition Waste Management Plan and the Outline Operational Waste Management Plan submitted with the application state that all waste from the construction phase and the operational phase would be disposed of by a registered facility.

A third party raised concerns that the AA Screening report does not comply with the requirements of the Planning and Development Act and the Habitats Directive in circumstances as it has not properly considered all aspects of the proposed development, such as the nature and extent of excavations and rock breaking works. An Outline Construction Management Plan and a Site Investigation report were submitted with the application which contain details of how the development would be constructed with standard practices for urban sites.

It is evident from the information before the Board that the proposed development, individually or in combination with other plans or projects, would be not be likely to have a significant effect on the South Dublin Bay SAC, North Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA and North Bull Island SPA and that Stage II AA is not required.

14.9. **AA Screening Conclusion:**

It is reasonable to conclude that on the basis of the information on file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on South Dublin Bay SAC (000210), North Dublin Bay SAC (000206), South Dublin Bay and River Tolka Estuary SPA (004024), North Bull Island SPA (004006), or any European site, in view of the sites' Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

15.0 Recommendation

Having regard to the above assessment, I recommend that Section 9(4)(a) of the Act of 2016 be applied and that permission is granted for the reasons and considerations and subject to the conditions set out below.

16.0 Reasons and Considerations

Having regard to

- a. The sites planning history.
- b. The site's location on lands with a zoning objective which includes residential development.
- c. The policies and objectives in the Dun Laoghaire Rathdown County Development Plan 2016-2022.
- d. Nature, scale and design of the proposed development.
- e. Pattern of existing development in the area.
- f. The Rebuilding Ireland Action Plan for Housing and Homelessness 2016.
- g. The National Planning Framework issued by the Department of Housing, Planning and Local Government in February 2018.
- h. Regional Spatial and Economic Strategy for the Eastern and Midland Region, 2019 – 2031.
- i. The Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2019.
- j. The Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of the Environment, Community and Local Government in March 2020.
- k. The Urban Development and Building Heights Guidelines for Planning Authorities 2018.
- l. Architectural Heritage Protection Guidelines, 2011.
- m. Chief Executive's Report, and
- n. Submissions and observations received.

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

17.0 **Recommended Board Order**

Application for permission under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016, in accordance with plans and particulars, lodged with An Bord Pleanála on the 7th of January 2021 by John Spain and Associates on behalf of Fitzwilliam DL Limited.

Proposed Development: The proposed development comprises the demolition of an existing 2-storey vacant dwelling (c. 78sqm) and the construction of 102 no. Build to Rent apartments with associated private residential amenity space and a café unit. The development is provided in 2 no. Buildings (Building 01 and Building 02).

Building 01 fronts onto Crofton Road. It ranges in height from 5 – 13 storeys and accommodates 57 no. apartments (42 no. 1-beds and 15 no. 2-beds) above ground floor residential amenity space (363sqm) and a café (93sqm). The internal residential amenity space includes co-working / study space, a gym, a games room, lounge / kitchen area and a multi-purpose recreational space, reception, post room and waste storage.

Building 02 is located to the rear of Building 01 and is 9-storeys in height. It accommodates 45 no. apartments (38 no. 1-bed and 7 no. 2-beds) and ground floor residential amenity space (46sqm) comprising a bicycle repair station, waste storage and storage units.

Communal open space (765sqm) is provided within the scheme at ground floor level, between the 2 no. buildings and at roof top level at 6th, 9th, and 13th storey of Building 01 and at 9th floor level at Building 02. Public open space (681sqm) is proposed adjacent to the site boundary with Crofton Road and includes a pedestrian walkway along the site's eastern boundary.

The development includes a vehicular right of way to St. Michaels Hospital from Crofton Road along the western site boundary. The right of way also provides vehicular access to 3 no. car parking space and 2 no. motorcycle parking spaces located between the 2 no. buildings. 150 no. bicycle parking spaces are provided within the scheme.

The scheme includes an ESB substation, bin storage, services, drainage infrastructure, green roofs boundary treatments and all associated site and infrastructural works.

Decision:

Grant permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

Matters Considered

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

In coming to its decision, the Board had regard to the following:

- a. The sites planning history.
- b. The site's location on lands with a zoning objective which includes residential development.
- c. The policies and objectives in the Dun Laoghaire Rathdown County Development Plan 2016-2022.
- d. Nature, scale and design of the proposed development.
- e. Pattern of existing development in the area.
- f. The Rebuilding Ireland Action Plan for Housing and Homelessness 2016.
- g. The National Planning Framework issued by the Department of Housing, Planning and Local Government in February 2018.

- h. Regional Spatial and Economic Strategy for the Eastern and Midland Region, 2019 – 2031.
- i. The Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2019.
- j. The Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of the Environment, Community and Local Government in March 2020.
- k. The Urban Development and Building Heights Guidelines for Planning Authorities 2018.
- l. Architectural Heritage Protection Guidelines, 2011.
- m. Chief Executive's Report.
- n. Submissions and observations received, and
- o. The Inspectors Report.

Appropriate Assessment

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on designated European sites, taking into account the nature, scale and location of the proposed development within an zoned and adequately serviced urban site, the information for the Screening Report for Appropriate Assessment and the Ecological Statement submitted with the application, the Inspector's Report, and submissions on file. In completing the screening exercise, the Board adopted the report of the Inspector and concluded that, by itself or in combination with other development in the vicinity, the proposed development would not be likely to have a significant effect on any European site in view of the conservation objectives of such sites, and that a Stage 2 Appropriate Assessment is not, therefore, required.

Environmental Impact Assessment

The Board completed a screening determination of the proposed development and considered that the Environmental Impact Assessment Screening Report submitted

by the applicant, identifies, and describes adequately the direct, indirect, secondary, and cumulative effects of the proposed development on the environment.

Having regard to:

- nature and scale of the proposed development, which is below the threshold in respect of Class 10(iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- the location of the site on lands zoned MTC to protect, provide and or improve Major Town Centre facilities in the Dun Laoghaire Rathdown Development Plan 2016-2022. The development plan was subject to a strategic environmental assessment in accordance with the SEA Directive (2001/42/EEC).
- The location of the site within the existing built up urban area, which is served by public infrastructure, and the existing pattern of development in the vicinity.
- (e) the location of the development outside of any sensitive location specified in article 299(C)(1)(v) of the Planning and Development Regulations 2001 (as amended)
- (e) The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003),
- (f) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended), and
- (g) The features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the Construction Management Plan, Construction Environmental Management Plan, Outline Construction and Demolition Waste Management and Outline Operational Waste Management Plan.

In conclusion, having regard to the absence of any significant environmental sensitivity in the vicinity and the absence of any connectivity to any sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development and that the preparation and submission of an environmental impact assessment report would not therefore be required.

Conclusions on Proper Planning and Sustainable Development:

The Board considered that the proposed development is, apart from the parameters of Section 8.2.3.3(ii) - Housing Mix set and Section 8.2.8.4 – Private Open Space of the Dun Laoghaire Rathdown County Development Plan 2016-2022 broadly compliant with the provisions of the Dun Laoghaire Rathdown County Development Plan 2016-2022 and would therefore be in accordance with the proper planning and sustainable development of the area.

The Board considers that, while a grant of permission for the proposed Strategic Housing Development would not materially contravene a zoning objective of the Development Plan, it would materially contravene Section 8.2.3.3(ii) - Housing Mix set and Section 8.2.8.4 – Private Open Space of Dun Laoghaire Rathdown County Development Plan 2016-2022 as outlined below: -

Mix of Units: Section 8.2.3.3(iii) – Mix of Units requires that larger schemes over 30 units should generally comprise of no more than 20% 1-bed units. The proposed development comprises 80 no. 1-bed units and 22 no. 2-bed units and, therefore, does not accord with the development plan standard.

Private Open Space: Section 8.2.8.4 refers to Table 8.2.5: Balconies / Winter Gardens: Minimum Private Open Space Standards which requires 6sqm private open space for 1 bed apartments and 8sqm of private open space for 2-bed apartments. 15 no. number of units on the northern elevation of Building 01, fronting onto Crofton Road do not have a balcony or terrace and, therefore, does not accord with the development plan.

The Board considers that, having regard to the provisions of section 37(2)(b)(i) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of the Dun Laoghaire Rathdown County Development Plan 2016-2022 would be justified for the following reasons and considerations:

- The proposed development falls within the definition of strategic housing set out in Planning and Development (Housing) and Residential Tenancies Act 2016.

- Government's policy to provide more housing set out in Rebuilding Ireland – Action Plan for Housing and Homelessness issued in July 2016.

The Board considers that, having regard to the provisions of section 37(2)(b)(iii) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of the Dun Laoghaire Rathdown County Development Plan 2016-2022 would be justified for the following reasons and considerations:

Housing Mix the proposed material contravention of Section 8.2.3.3(iii) – Mix of Units is justified by reference to: -

- SPPR8(i) of the Sustainable Urban Housing: Design Standards for New Apartments, 2020 which states that no restrictions on dwelling mix and all other requirements of these Guidelines shall apply for Build to Rent developments.

Private Open Space the proposed material contravention of Section 8.2.8.4 refers to Table 8.2.5: Balconies / Winter Gardens: Minimum Private Open Space Standards is justified by reference to: -

- SPPR8(ii) of the Sustainable Urban Housing: Design Standards for New Apartments, 2020 which states that flexibility shall apply in relation to the provision of a proportion of the private amenity space associated with individual units.

In accordance with section 9(6) of the 2016 Act, the Board considered that the criteria in section 37(2)(b)(i) and (iii) of the 2000 Act were satisfied for the reasons and considerations set out in the decision.

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

18.0 Conditions

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

Reason: In the interest of clarity.

2. The proposed development shall be amended as follows:
 - a. The ground floor Kitchen / lounge area (85.7sqm) and attached games room area (72.8sqm) located in the ground floor of Building 01 shall be replaced with an additional unit(s) accommodating uses permissible under class 1, 2 and 8 of Part 4, Schedule 1 the Planning and Development Regulations, 2001 (as amended).
 - b. The first-floor level Units B1_01.05 and B1_01.06 shall be omitted and replaced with kitchen / lounge area and games room / residential amenity space.
 - c. The fully obscure bedroom windows on the eastern elevation of Building 01 serving apartments B1_01.05, B1_02.06, B1_03.06, B1_04.06, B1_05.05, B1_06.03 and B1_07.03 shall be omitted and replaced with angled windows as indicated in the bedroom of apartment B1_01.04. Unless otherwise agreed in writing with the planning authority.
 - d. The bedroom window serving apartment B1_08.02 on the 8th floor level of Building 01 shall be omitted and replaced with angled windows as indicated in the bedroom of apartment unit B1_01.04. Unless otherwise agreed in writing with the planning authority.

- e. The eastern elevation of balconies on Building 01, adjacent to Harbour View, shall be permanently screened with louvres. Unless otherwise agreed in writing with the planning authority.
- f. A high-level screen, a minimum of 2m in height, shall be permanently provided on the southern and western elevations of the 5th floor roof terrace of Building 01.

Reason: In the interests of protecting the residential amenities of adjoining properties

- 3. Prior to commencement of development the applicant shall agree in writing with the planning authority details micro-climate mitigation measures, including high level screening and planting for all roof terraces.

Reason: In the interest of residential amenity

- 4. Details of the materials, colours, and textures of all the external finishes to the proposed buildings shall be as submitted with the application, unless otherwise agreed in writing with, the planning authority prior to commencement of development. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of visual amenity.

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

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

- 6. Proposals for an apartment naming / numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all signs, and apartment numbers, shall be provided in accordance with the agreed

scheme. The proposed names shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

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

7. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall -

(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,

(b) employ a suitably qualified archaeologist who shall monitor all site investigations and other excavation works, and

(c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

8. Prior to the commencement of development, the owner shall submit, for the written consent of the planning authority, details of a proposed covenant or legal agreement which confirms that the proposed development hereby permitted shall remain owned and operated by an institutional entity for a minimum period of not less than 15 years and where no individual residential

units shall be sold separately for that period. The period of 15 years shall be from the date of occupation of the first apartments within the scheme.

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

9. Prior to expiration of the 15-year period referred to in the covenant, the developer shall submit for the written agreement of the planning authority, ownership details and management structures proposed for the continued operation of the entire development as a Build to Rent Accommodation scheme. Any proposed amendment or deviation from the Build to Rent Accommodation model as authorised in this permission shall be subject to a separate planning application.

Reason: In the interests of orderly development and clarity.

10. To mitigate against potential damage to mature trees on Crofton Road the applicant shall submit for the written agreement of the planning authority the final location of the underground surface water infrastructure prior to commencement of development.

Reason: In the interest of sustainable development and visual amenity.

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

Reason: In the interests of visual and residential amenity.

12. The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in DMURS. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

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

13. Prior to commencement of development details of the works to the public road, shall be submitted to, and agreed in writing with the planning authority.

Reason: In the interest of road safety and to ensure the satisfactory completion of the works.

14. Prior to the occupation of the development, a Mobility Management Strategy shall be submitted to and agreed in writing with the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking, and carpooling by residents in the development and to reduce and regulate the extent of parking. The mobility strategy shall be prepared and implemented by the management company for all units within the development.

Reason: In the interest of encouraging the use of sustainable modes of transport.

15. Drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Prior to commencement of development the developer shall submit to the Planning Authority for written agreement a Stage 2 - Detailed Design Stage Storm Water Audit.

Upon Completion of the development, a Stage 3 Completion Stormwater Audit to demonstrate Sustainable Urban Drainage System measures have been installed, and are working as designed and that there has been no misconnections or damage to storm water drainage infrastructure during construction, shall be submitted to the planning authority for written agreement.

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

16. The site shall be landscaped, in accordance with the scheme of landscaping, which accompanied the application. The developer shall appoint and retain the services of a qualified Landscape Architect (or qualified Landscape Designer) as a Landscape Consultant, throughout the life of the construction works, unless otherwise agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of residential and visual amenity

17. A schedule of landscape maintenance shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development. This schedule shall cover a period of at least three years and shall include details of the arrangements for its implementation.

Reason: To provide for the satisfactory future maintenance of this development in the interest of visual amenity

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

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

19. The developer shall enter into water and wastewater connection agreements with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

20. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

21. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the "Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects", published by the Department of the Environment, Heritage and Local Government in July 2006.

Reason: In the interest of sustainable waste management.

22. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

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

23. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or

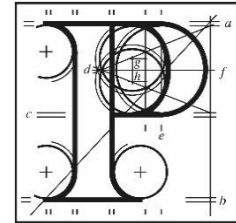
on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate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

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

Elaine Power

Planning Inspector

9th April 2021



An
Bord
Pleanála

Appendix 1:

EIA - Screening Determination for Strategic Housing Development Applications

A. CASE DETAILS		
An Bord Pleanála Case Reference		ABP-309098-20
Development Summary		Demolition of an existing house and the construction of 102 no. Build to Rent apartments and all associated works
	Yes / No / N/A	
1. Has an AA screening report or NIS been submitted?	Yes	An EIA Screening Report and a Stage 1 AA Screening Report was submitted with the application
2. Is an IED/ IPC or Waste Licence (or review of licence) required from the EPA? If YES has the EPA commented on the need for an EIAR?	No	No
3. Have any other relevant assessments of the effects on the environment which have a significant bearing on the project been carried out pursuant to other relevant Directives – for example SEA	Yes	SEA undertaken in respect of the Dun Laoghaire Rathdown Development Plan 2016-2022 and the results of the Strategic Environmental Assessment of the plan.

B. EXAMINATION	Yes/ No/ Uncertain	Briefly describe the nature and extent and Mitigation Measures (where relevant) (having regard to the probability, magnitude (including population size affected), complexity, duration,	Is this likely to result in significant effects on the environment? Yes/ No/ Uncertain
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		frequency, intensity, and reversibility of impact)	
		Mitigation measures –Where relevant specify features or measures proposed by the applicant to avoid or prevent a significant effect.	
1. Characteristics of proposed development (including demolition, construction, operation, or decommissioning)			
1.1 Is the project significantly different in character or scale to the existing surrounding or environment?	No	The development comprises the construction of residential units and mixed uses on zoned lands. The nature and scale of the proposed development is not regarded as being significantly at odds with the surrounding pattern of development.	No
1.2 Will construction, operation, decommissioning or demolition works cause physical changes to the locality (topography, land use, waterbodies)?	Yes	The proposed development is located on brownfield lands within Dun Laoghaire town centre. The proposed development is not considered to be out of character with the pattern of development in the surrounding area.	No
1.3 Will construction or operation of the project use natural resources such as land, soil, water, materials/minerals or energy, especially resources which are non-renewable or in short supply?	Yes	Construction materials will be typical of such urban development. Redevelopment of this brownfield site will not result in any significant loss of natural resources or local biodiversity.	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?</p>	<p>Yes</p>	<p>Construction activities will require the use of potentially harmful materials, such as fuels and other such substances. Such use will be typical of construction sites. Any impacts would be local and temporary in nature and implementation of a Construction Management Plan will satisfactorily mitigate potential impacts. No operational impacts in this regard are anticipated.</p>	<p>No</p>
<p>1.5 Will the project produce solid waste, release pollutants or any hazardous / toxic / noxious substances?</p>	<p>Yes</p>	<p>Construction activities will require the use of potentially harmful materials, such as fuels and other such substances and give rise to waste for disposal. Such use will be typical of construction sites. Noise and dust emissions during construction are likely. Such construction impacts would be local and temporary in nature and implementation of a Construction Management Plan will satisfactorily mitigate potential impacts.</p> <p>Operational waste will be managed via a Waste Management Plan, significant operational impacts are not anticipated.</p>	<p>No</p>

1.6 Will the project lead to risks of contamination of land or water from releases of pollutants onto the ground or into surface waters, groundwater, coastal waters or the sea?	No	No significant risk identified. Operation of a Construction Management Plan will satisfactorily mitigate emissions from spillages during construction. The operational development will connect to mains services. Surface water drainage will be separate to foul services. No significant emissions during operation are anticipated.	No
1.7 Will the project cause noise and vibration or release of light, heat, energy or electromagnetic radiation?	Yes	Potential for construction activity to give rise to noise and vibration emissions. Such emissions will be localised, short term in nature and their impacts may be suitably mitigated by the operation of a Construction Management Plan. Management of the scheme in accordance with an agreed Management Plan will mitigate potential operational impacts.	No
1.8 Will there be any risks to human health, for example due to water contamination or air pollution?	No	Construction activity is likely to give rise to dust emissions. Such construction impacts would be temporary and localised in nature and the application of a Construction Management Plan would satisfactorily address potential impacts on human health. No significant operational impacts are anticipated.	No

1.9 Will there be any risk of major accidents that could affect human health or the environment?	No	No significant risk having regard to the nature and scale of development. Any risk arising from construction will be localised and temporary in nature. The site is not at risk of flooding. There are no Seveso / COMAH sites in the vicinity of this location.	No
1.10 Will the project affect the social environment (population, employment)	Yes	Redevelopment of this site as proposed will result in a change of use and an increased population at this location. This is not regarded as significant given the urban location of the site and surrounding pattern of land uses.	No
1.11 Is the project part of a wider large scale change that could result in cumulative effects on the environment?	No	This is a stand-alone development, comprising renewal of a site and is not part of a wider large scale change. There are no permitted / proposed development on immediately adjacent lands. Other developments in the wider area are not considered to give rise to significant cumulative effects.	No
2. Location of proposed development			

<p>2.1 Is the proposed development located on, in, adjoining or have the potential to impact on any of the following:</p> <ol style="list-style-type: none"> 1. European site (SAC/ SPA/ pSAC/ pSPA) 2. NHA/ pNHA 3. Designated Nature Reserve 4. Designated refuge for flora or fauna 5. 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	<p>No European sites located on the site. An AA Screening Assessment accompanied the application which concluded the development would not be likely to give rise to significant effects on any European Sites.</p> <p>This brownfield site does not host any species of conservation interest.</p>	No
<p>2.2 Could any protected, important or sensitive species of flora or fauna which use areas on or around the site, for example: for breeding, nesting, foraging, resting, over-wintering, or migration, be affected by the project?</p>	No	<p>No such species use the site and no impacts on such species are anticipated.</p>	No
<p>2.3 Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?</p>	No	<p>No such features</p>	No

2.4 Are there any areas on/around the location which contain important, high quality or scarce resources which could be affected by the project, for example: forestry, agriculture, water/coastal, fisheries, minerals?	No	No such features arise in this urban location.	No
2.5 Are there any water resources including surface waters, for example: rivers, lakes/ponds, coastal or groundwaters which could be affected by the project, particularly in terms of their volume and flood risk?	No	The site is not traversed by any watercourses or drains and there are no connections to watercourses in the area. The development will implement SUDS measures to control surface water run-off. The site is not at risk of flooding.	No
2.6 Is the location susceptible to subsidence, landslides or erosion?	No	Site investigations identified no risks in this regard.	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?	No	The site is served by a local urban road network. There are sustainable transport options available to future residents. The site currently comprises a large surface car park. 3 no. car parking spaces are proposed on the site. No significant contribution to such congestion is anticipated.	No

2.8 Are there existing sensitive land uses or community facilities (such as hospitals, schools etc) which could be affected by the project?	Yes	The development is adjoined by St. Michael's Hospital. The development would not be likely to affect the operation of the hospital use. The development would not be likely to generate additional demands on educational facilities in the area.	No
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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	No developments have been identified in the vicinity which would give rise to significant cumulative environmental effects. Some cumulative traffic impacts may arise during construction. This would be subject to a construction traffic management plan.	No
3.2 Transboundary Effects: Is the project likely to lead to transboundary effects?	No	No trans boundary considerations arise	No
3.3 Are there any other relevant considerations?	No	No	No

C. CONCLUSION			
No real likelihood of significant effects on the environment.	Yes	EIAR Not Required	EIAR Not Required
Real likelihood of significant effects on the environment.	No		

D. MAIN REASONS AND CONSIDERATIONS

Having regard to: -

- the nature and scale of the proposed development, which is below the threshold in respect of Class 10(iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- the location of the site on lands zoned to protect, provide for and / or improve major town centre facilities in the Dun Laoghaire Rathdown Development Plan 2016-2022. The development plan was subject to a strategic environmental assessment in accordance with the SEA Directive (2001/42/EEC).
- The location of the site within the existing built up urban area, which is served by public infrastructure, and the existing pattern of development in the vicinity.
- (e) the location of the development outside of any sensitive location specified in article 299(C)(1)(v) of the Planning and Development Regulations 2001 (as amended)
- (e) The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003),
- (f) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended), and
- (g) The features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the Construction

Management Plan, the Construction Environmental Management Plan and the Waste Management Plan and Outline Operational Waste Management Plan.

It is considered that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an environmental impact assessment report would not therefore be required.

Inspector: Elaine Power

Date: 9th April 2021