



An  
Bord  
Pleanála

## Inspector's Report

### ABP-318518-23

|                                     |                                                                                                                                                      |
|-------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Development</b>                  | Construction of part two to part six storey mixed use development comprising of 2 commercial units and 68 apartments with all associated site works. |
| <b>Location</b>                     | 69D Donore Avenue, Dublin 8.                                                                                                                         |
| <b>Planning Authority</b>           | Dublin City Council                                                                                                                                  |
| <b>Planning Authority Reg. Ref.</b> | 3400/23                                                                                                                                              |
| <b>Applicant(s)</b>                 | Lullymore Ventures Limited                                                                                                                           |
| <b>Type of Application</b>          | Planning Permission                                                                                                                                  |
| <b>Planning Authority Decision</b>  | Refuse permission                                                                                                                                    |
| <b>Type of Appeal</b>               | First Party against decision                                                                                                                         |
| <b>Appellant(s)</b>                 | Lullymore Ventures Limited                                                                                                                           |
| <b>Observer(s)</b>                  | None                                                                                                                                                 |
| <b>Date of Site Inspection</b>      | 12 <sup>th</sup> September 2024                                                                                                                      |
| <b>Inspector</b>                    | D. Aspell                                                                                                                                            |

## **1.0 Site Location and Description**

- 1.1. The site is 69D Donore Avenue, Dublin 8. It measures c.0.29 hectares and comprises the site of a previously demolished industrial building. The site is largely covered in hardstanding and heavily overgrown.
- 1.2. White Swan Business Centre is to the east. It comprises offices and warehousing, and includes Donore Castle (a protected structure). Within White Swan Business Centre a watercourse is visible which runs in an open culvert adjacent the north-eastern boundary of the subject site.
- 1.3. Donore Avenue passes along the northwestern boundary of the site. Facing the site across Donore Avenue is a terrace of 8 no. 2-storey dwellings called Elford Terrace. The end of a second terrace of dwellings along Donore Avenue ('School Terrace') also faces the site at this point. St. Catherine & St. James Church is across Donore Avenue to the west (a protected structure).
- 1.4. Adjoining the site to the south-west is No. 71 Donore Avenue, and also a small cluster of sheds currently in commercial use. No. 71 forms the end of a terrace of five 2-storey dwellings (Nos. 71 to 79) which extends to the south-west.
- 1.5. A short section of the southern boundary abuts an office site.
- 1.6. The site boundary generally comprises 2m high block walls.

## **2.0 Proposed Development**

- 2.1. The development as revised at further information stage is comprised generally of:
  - A 2- to 6-storey block comprising 68 no. apartments, and 2 no. ground-floor commercial units (c.503sqm in total) facing onto Donore Avenue;
  - Amenity spaces and terraces at ground, fourth and sixth floor;
  - Vehicular access from Donore Avenue and improvements to Donore Avenue;
- 2.2. In response to further information, increased elevation setbacks, internal apartment layout changes, changes to glazing, and additional terraces were introduced.

## 3.0 Planning Authority Decision

### 3.1. Decision

Dublin City Council issued a notification to refuse permission for 1 no. reason. In summary the reason stated that as the development was located within a 10m buffer zone of the Abbey Stream running alongside the site, it would significantly limit future opportunities for river rehabilitation, enhancement of the riparian zone, floodplain and implementation of flood alleviation schemes. The proposal was therefore considered contrary to Policy SI10 of the Dublin City Development Plan which requires developments to provide for a minimum set-back distance of 10-15m from the top of the river bank.

The reason also states that as the development was located on Z10 masterplan lands this issue would impact the proposed layout and operation of the masterplan. The reason also stated that the proposed development provide a poor precedent for development which would have a severe impact on the proper planning and sustainable development of the city.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning report:

3.2.2. The report on the application concluded the proposal was acceptable in principle, and the provision of a broadly acceptable masterplan was noted. It stated a number of technical drainage matters required clarity, and a number of details regarding residential amenity of potential occupants and neighbours could be improved. Further information was therefore recommended.

3.2.3. In response to further information planning authority report (31/10/23) recommended refusal. The report made the following points:

- Residential standards: The housing quality and dual aspect are acceptable. The housing mix is marginally not compliant with requirements.
- Sunlight & daylight impacts: A 3<sup>rd</sup> floor setback is introduced; there would be a severe reduction in daylight access to a rear bedroom in No. 71 Donore Avenue. This singular impact may be acceptable. The visual sky component

level for 2 no. living rooms in Elford Terrace would fall below 27% and would be 73% their existing level. Removal of apartments No. 401 and 501 would reduce this impact significantly. This can be conditioned;

- Internal luminance: The response is acceptable. A condition should be attached clarifying the layout is to be as per the floor plans and not the further information response document. Part of the enlarged storage could be integrated into Unit 214; this can be agreed by condition;
- Communal amenity space: Proposal is acceptable. A condition is required specifying that communal spaces are open to all residents. The ground floor space should be public on delivery of the masterplan. This should be conditioned.
- Overlooking: Mitigation in the form of fritted glass to balcony screens is acceptable. A condition should be attached to specify the layout of units No. 101 and 201 as being revised per the layout on page 22 of the Architect's Further Information Response and as shown on the second-floor plans. The proposed angled windows have been revised to increase the angle and obscured glazing has been added to the; this is acceptable;
- Transportation: Report notes the conditions recommended by the Transportation Planning Division, including the need to agree final placement of pedestrian crossing of Donore Avenue, reduction in width of vehicular access, emergency vehicle access only for southern access, and agreement of final footpath layout. There is capacity for street planting along Donore Avenue, and final footpath arrangements should be agreed;
- Drainage: Report notes the planning authority drainage division recommended refusal due to non-compliance with Policy SI10. Report states a 10m setback from the stream/culvert at the site's boundary would require a reduction in the eastern section of the building and loss of units on all levels, and that it would be inappropriate to achieve this by condition. Report notes the development plan provides for gradual improvements to watercourses to create riparian zones. The benefit of a riparian buffer zone is ecological rather flooding or maintenance access;

- Masterplan: The revised masterplan proposals including additional service access is adequate. Report states that given the impact on the proposed development of Policy SI10, there is a fair assumption that a riparian buffer strip would be required throughout the masterplan lands and the culvert uncovered. This would effectively bisect the masterplan lands and service access may be needed through this site to the rear. This issue can be integrated into the reason for refusal;
- Report concluded the applicant provided an adequate response to many issues arising at further information. It states that given the requirements of the development plan regarding provision of riparian buffer strips and the gradual restoration of the City's river corridors, the development would be contrary to policy SI10 and would provide a poor precedent for development which contravenes a policy relating to gradual improvement of the City's watercourses, thereby undermining compliance with the Water Framework Directive and the proper planning and sustainable development of the city.

#### Other Technical Reports

3.2.4. Drainage: In response to further information the report (24/10/23) recommended permission be refused, summarised as follows:

- The planning authority drainage section objects to the proposal;
- Site is adjacent the Abbey Stream which his part of the Poddle River System and by extension the Poddle River Corridor. Contrary to applicant's further information response, inclusion of the culvert in the database of surface water sewers does not negate this. This is standard Dublin City Council practice and does not reflect a diminished potential for restoration;
- The current development plan enhanced support for development, management and protection of watercourses in line with Water Framework Directive, River Basin Management Plan, and climate change adaptation;
- Policies SI7-SI10 are relevant. Providing more room for waterbodies is central. A 10m setback from this stream (the open channel and culverted section) is the minimum required by development plan policy SI10;

- The designs as proposed including at further information do not reflect this requirement despite it being highlighted in the RFI and meetings with the planning authority;
- Long-term aims for improved waterbody setback-distances are summarised in development plan Figure 9-1. They provide for incremental enhancements in the delivery of ecosystem services, including future nature-based climate change adaptation measures. The proposal would limit future opportunities along this stretch. The congested nature of the waterbody corridor at this location makes this opportunity all the more valuable;
- Report states that applicant has not established the exact alignment of the Abbey Stream culvert. Only an indicative location of the culvert has been provided. Without the knowledge of the exact location of the culvert on the site it is not possible to ascertain that the indicated setbacks will be achieved;
- The application has been assessed against the objectives and policies in the current development plan, which reflect the ever-changing climate and subsequent environmental challenges that must be addressed. The drainage section reject any notion of precedent being set by previous applications against now out-dated policies;
- For the above reasons the proposal should be refused.

3.2.5. The report also stated that should consideration be given to a grant of permission based on other over-riding factors, the Section recommended the attachment of 8 no. conditions. The first recommended condition was for the exact location and levels of the Abbey Stream culvert intersecting the site to be accurately determined. The remaining conditions related to separation of foul and surface water systems, connection to the public surface water network, incorporation of Sustainable Drainage Systems, surface water attenuation, petrol interceptors, manhole and outfall pipe construction, and ensuring all private drainage is located within the site.

3.2.6. Transportation Planning: In response to further information the report (16/10/23) stated no objection subject to conditions regarding demolition management; construction management; mobility management; detailed design of pedestrian crossing, vehicular access, footpaths and materials in public areas, as well as details of car and cycle parking, costs and Codes of practice.

- 3.2.7. Archaeology Section: Report stated the site is inside the Zone of Archaeological Constraint for the Recorded Monuments DU018-047001-2 (Donore Castle and Mills) and DU018-043004 (watercourse), which refers to a medieval watercourse known as the Abbey Stream. Report recommended conditions for archaeological testing and monitoring.

### 3.3. **Third Party Observations**

- 3.3.1. During the planning application stage six observations were made to the planning authority. The issues raised related to zoning, amenity impacts on Elford Terrace, building height and impact on No. 71 Donore Avenue and on Elford Terrace, impact on natural light, traffic, construction and construction traffic, impact on the River Poddle, and impact on protected structures in the vicinity (Donore Castle and St. Catherine's & St. James' Church. A number of submissions welcomed development of the site.

### 3.4. **Prescribed Bodies**

None received.

## 4.0 **Planning History**

### 4.1. Subject site

Reg. Ref. 2027/17 (ABP Ref. PL29S.248897): Planning permission granted by the planning authority in 2017 for a part three, part four storey office building, over basement measuring 6,962 sqm. Vehicular access from Donore Avenue. The development included the provision of 26 no. car parking spaces and 1 no. motorcycle space, at basement level, and 53 no. bicycle parking spaces. The development included an ESB room, plant storage area and shower/changing facilities at basement floor level, plant at roof level and all associated site development works, landscaping and all other ancillary works. I note the setback from Abbey Stream in this case was c.5m. The appeal to the Board was withdrawn.

Reg. Ref. 4156/06: Planning permission granted by the planning authority in 2006 for demolition of all existing buildings on site and the construction of a mixed-use development in 3 no building blocks (all over basement).

#### 4.2. Nearby sites:

Ref. 3103/20: Planning permission granted by the planning authority in 2017 at No. 71 Donore Avenue for partial demolition at ground of existing two storey rear extension and construction of a larger full width ground floor extension. The proposed ground floor extension measures 14m<sup>2</sup>. The proposed development will also consist of general remedial works to the ground and first floor layouts including removal of internal walls, dropping of floor level at rear of ground floor, remedial works to existing first floor rear return bathroom, new rear canopy at ground floor, velux window to rear roof pitch of main house. This permission appears to have been implemented.

Ref. 4261/03: Planning permission granted by the planning authority in 2003 at White Swan Business Park for the partial demolition, renovation and construction of a boundary wall to the development, excavation and renovation of the drainage works, surface dressing and revised layout of the car park, provision of new guardrail to the River Poddle, upgrading of landscaping and ancillary works.

## 5.0 **Policy Context**

### 5.1. **Development Plan**

The site is zoned 'Z10 Inner Suburban and Inner City Sustainable Mixed-Use' in the Dublin City Development Plan 2022-2028, the land use zoning objective for which is *"To consolidate and facilitate the development of inner city and inner suburban sites for mixed-uses"*. I note Section 14.1 and 14.7.10 in relation to the masterplan requirements for Z10 lands.

Policy SI10 'Managing Development Within and Adjacent to River Corridors': *"To require development proposals that are within or adjacent to river corridors in the City (excluding the Camac River) to provide for a minimum set-back distance of 10-15m from the top of the river bank in order to create an appropriate riparian zone."*

*The Council will support riparian zones greater than 10 metres depending on site-specific characteristics and where such zones can integrate with public/communal open space”.*

*Section 9.5.2 ‘Urban Watercourses and Water Quality’ states “It is the objective of the Council to prepare river corridor restoration strategies for the City’s watercourses and to develop a long term, integrated and interdisciplinary approach to linking the restoration of the City’s rivers and tributaries to land use planning, urban regeneration, climate adaptation and the provision of ecosystem services such as flood management, habitat provision and pollution control. ... Forthcoming national guidance on nature-based sustainable urban drainage and WFD assessment of plans and projects will provide a strong policy basis for nature-based water management and will support the advancement of the Council’s River Restoration Strategies. In the interim, progressive restoration within river corridors is to be achieved by managing the nature and extent of development adjoining the City’s rivers by applying a recommended minimum setback distance from all rivers in line with Planning for Watercourses in the Urban Environment Guidance (2020) produced by Inland Fisheries Ireland and the River Hydromorphology Assessment Technique (RHAT) under the Water Framework Directive.*

*Objective SIO7 ‘River Restoration Flagship Projects’ and SIO8 ‘River Restoration Strategies / Masterplans’. SIO7 states: “To support the delivery of flagship river restoration projects where restoration measures can be comprehensively implemented, including the Camac River Corridor. This will include opportunities arising from the regeneration/ development of strategic land banks”.*

*Objectives SIO4 ‘River Basin Management Plan’, SIO5 ‘River Basin Management Plan’ and SIO8 ‘River Restoration Strategies / Masterplans’.*

*Policy GI9 ‘European Union Natura 2000 Sites, GI15 ‘Inland and Sea Fisheries’ states “To protect inland and sea fisheries and take full account of Inland Fisheries Ireland Guidelines ‘Planning for Watercourses in the Urban Environment’ 2020, when undertaking, approving or authorising development or works which may impact on rivers, streams, watercourses, estuaries, shorelines and their associated habitats. To protect sea angling sites designated by Inland Fisheries Ireland at the North and South Bull Walls and at Dollymount and Sandymount Strands.”*

Section 10.5.5 Rivers and Canals including Figure 10-3 'Dublin City's Main Rivers and Canals'. Figure 10-3 shows a map of rivers and canals in Dublin.

Policy GIO9 'Invasive Alien Species, GI31 'Protect and Improve Ecological Status of Rivers under the EU Water Framework Directive', GI34 'New Development and Public Open Space along River Corridors', Policy GI29 'Protect Character of River Corridors' states: *"Protect Character of River Corridors To protect, maintain, and enhance the watercourses and their river corridors in the city and to ensure that development does not cover or encroach upon rivers and their banks. To maintain natural river banks and restore them as part of any new development. The creation and/or enhancement of river corridors will be required and river restoration opportunities where possible will be supported to help improve water quality, and ecology, provide natural flood relief as well as providing amenity and leisure benefits."*

BHA16 'Industrial Heritage', BHA17 'Industrial Heritage of Waterways, Canals and Rivers', BHA26 'Archaeological Heritage'. Section 11.5.5 Archaeological Heritage.

Chapter 15 'Development Standards' including Sections 15.6.6 Sensitive Ecological Areas and 15.15 Built Heritage and Archaeology.

## 5.2. National policy and guidelines

### Section 28 Ministerial Guidelines

Sustainable Residential Development & Compact Settlements (2024)

Sustainable Urban Housing Design Standards for New Apartments Guidelines for Planning Authorities (2022)

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

Architectural Heritage Protection Guidelines for Planning Authorities (2011)

Planning System & Flood Risk Management Guidelines (2009)

### Other national policies and guidelines

Water Action Plan A River Basin Management Plan for Ireland (2024)

Nature Based Management of Urban Rainwater and Urban Surface Water Discharges, A National Strategy (Department of Housing, Local Government & Heritage, 2024)

Ireland's 4<sup>th</sup> National Biodiversity Action Plan 2023-2030, noting in particular Objectives 1 to 5.

Nature-based Solutions to the Management of Rainwater and Surface Water Runoff in Urban Areas, Water Sensitive Urban Design, Best Practice Interim Guidance Document (Department of Housing, Local Government & Heritage, 2022)

Planning for Watercourses in the Urban Environment: A Guide to the Protection of Watercourses through the use of Buffer Zones, Sustainable Drainage Systems, Instream Rehabilitation, Climate / Flood Risk and Recreational Planning (Inland Fisheries Ireland, 2020)

National Planning Framework 2040 Ireland Out Plan (2018), including National Policy Objective (NPO) 57 and NPO 59.

Appropriate Assessment of Plans and Projects in Ireland, Guidelines for Planning Authorities, 2010

### **5.3. Regional policy and guidelines**

Eastern & Midland Regional Assembly Regional Spatial & Economic Strategy 2019-2031, including Section 5.9 Green Infrastructure and Amenities, which states that in the Dublin Metropolitan Area strategic assets include water corridors including the Poddle. Table 7.1 Strategic Natural, Cultural and Green Infrastructure Assets in the Region, in relation to Lakes, Rivers and canals, identifies the River Poddle.

### **5.4. Natural Heritage Designations**

- 5.4.1. South Dublin Bay & River Tolka Estuary SPA and South Dublin Bay SAC are c.4.5km to the east. North Dublin SAC and North Bull Island SPA are c.7.3km to the east.

### **5.5. Environmental Impact Assessment screening**

- 5.5.1. Having regard to:

(1) the criteria set out in Schedule 7, in particular:

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

(2) the results of other relevant assessments of the effects on the environment submitted by the applicant;

(3) the features and measures proposed by applicant envisaged to avoid or prevent what might otherwise have been significant effects on the environment, and in particular the proposal to preserve in situ known archaeological features;

the Board concluded that the proposed development would not be likely to have significant effects on the environment, and that an environmental impact assessment report is not required (See Forms 1 & 3 Appendix 1).

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

6.1.1. The first party appeal received is summarised as follows:

- Summary: Appeal sets out a summary of grounds of appeal in response to the refusal reason: Report states the requirement for a 10 to 15m set back from a riparian corridor under Policy SI10 should not apply to the site. The site is not within or adjacent a river corridor as the Abbey Stream is a stormwater sewer. The mapping indicated in development plan Figure 10-3 as it relates to the subject site and routing of the River Poddle is incorrect. The historic channel of what is labelled as the Abbey Stream is culverted for over 98% of its length, with two small sections of open drainage ditch. The Abbey Stream cannot be considered a river or stream capable of river rehabilitation. Policy SI10 should not be applied and the proposal does not warrant refusal in this regard;

- Irish Water: Irish Water records refer to the stream as a stormwater sewer. Dublin City Council refer to it as a sewer as part of Condition 11(c) of Ref. 2027/17 decision. There is no 'top of riverbank' as referred to in Policy SI10;
- Setback: Substantial setbacks are proposed along the northern side of the site including landscaping, SuDS and biodiversity measures which maintain a 5m plus setback. The setbacks provide for maintenance access, enhanced landscape proposals, including biodiversity / SuDS measures and interface with the new residential development, with potential for future improvements if the masterplan proposals are realised on the adjacent Z10 lands. The proposal will not prejudice future restoration of a river or provision of a riparian, as this is clearly unachievable up or downstream; The referenced setback would have a significant adverse impact on the development;
- Riparian corridor: It is not practical, feasible or achievable to provide for a riparian corridor or river restoration given the urban context. A 10m riparian corridor is not achievable for this stream given the extent of existing roads and building which would need to be demolished;
- Policy SI10: The City Council will have to apply policy SI10 carefully as there will be numerous instances along the River Liffey and City Quays where a 10-15m set back cannot be provided; the imposition of Policy SI10 based on the 'rivers' identified in Figure 10-3 requires greater flexibility depending on the site specific circumstances and the character and ecology of the river in question;
- Land use zoning: The proposal accords with the Z10 zoning, the proper planning and sustainable development of the area;
- Abbey Stream: Appeal acknowledges development plan Figure 10-3 which identifies the River Poddle, however appeal states the historic channel of what is labelled the Abbey Stream is to the north, but that the channel is now a storm sewer culverted for more than 95% of its length. Appeal refers to it as a storm sewer and the formerly Abbey Stream and as such it is not a river or even a stream; it is a stormwater sewer that drains to the River Poddle with two small sections of open draining ditch one of which is adjacent the site to the north;
- Pre-planning: Consultations were undertaken with the planning authority in 2020 and 2021 for the overall area zoned Z10 area including the adjoining

lands at White Swan Business Park. During discussions no reference was made to a requirement for a 10-15m setback. Revisions to other aspects of the initial proposals were made on foot of pre-planning meetings;

- Masterplan: Despite considerable progress to bring forward a joint application it has not been possible bring forward White Swan Business Centre due to tenant lease agreements. A letter of support from White Swan Business Centre is submitted with the application which confirms they support the application and the overall indicative Z10 masterplan;
- Further information response: Appeal sets out details of the further information response. Appeal reiterates the site is not a river or riparian corridor, and the development will not prejudice restoration of a river as this is clearly unachievable up or downstream;
- River restoration: Appeal refers to Department of Housing, Local Government, and Heritage document “Nature-based Solutions to the Management of Rainwater and Surface Water Runoff in Urban Areas – Water Sensitive Urban Design Best Practice Interim Document” which states that some river may not be possible to restore. The appellant states they are not aware of any specific plans / strategies for the restoration of the stream, and as such the policy would not appear to be achievable / directly applicable to development of this site, for example when compared to the proposal for the Camac River re-naturalisation as part of the Naas Road Local Area Plan or the City Edge Project where there is a plan led approach and stakeholders are fully aware of the requirements;
- Ecology and biodiversity: The existing stream is not connected to any open watercourse in any ecologically meaningful way, and the proposed landscaping provides a relatively good enhancement on biodiversity. The proposed setback supports development plan policies on water, ecology, flood relief and amenity;
- Flooding: Appeal states that in the unlikely event of flooding at the site, given the existing ground levels, water would flow away from the development in a northern direction and would follow Donore Avenue. It states the potential for these lands to provide for future flood alleviation measures is minimal due to its location, size, topography and constraints along the existing sewer;

- Other issues: The planning authority consider the development in all other respects is consistent with the development plan and zoning objective. The flood risk, environmental, biodiversity, and Water Framework Directive concerns raised by the planning authority are addressed;

6.1.2. Appendix 2 of the appeal comprises an Appeal Response from CS Consulting Engineers. In summary it sets out a technical explanation of how the existing culvert sewer is not significant or categorised as a river corridor. Irish Water records indicate it is a brick storm sewer which meets the Liffey at Wellington Quay. The extent of the culvert prevents the restoration as it is not feasible in the inner City. Four other appendices are attached to the appeal (a copy of the decision notification, a planning history of the area, indicative route of storm sewer, and landscape masterplan)

## 6.2. **Planning Authority Response**

6.2.1. Response requests the Board uphold the decision to refuse, and that should permission be granted, standard conditions for social housing, naming & numbering, management company and financial contributions be attached.

## 6.3. **Observations**

6.3.1. None received.

## 7.0 **Assessment**

7.1. Having regard to the foregoing; having examined the application, appeal and planning authority reports; having examined all of the documentation on file; having inspected the area within and around the site; and having regard to relevant adopted development plan policies and objectives, I consider the main issues in this appeal are as follows:

- Land use
- The reason for refusal
- Other matters raised in the course of the appeal
- Appropriate Assessment

## Land use

### *Uses proposed as part of the application*

- 7.2. The site is zoned Z10. The proposal is for 68 no. apartments and two moderately sized commercial units. The units are proposed to be Class 1 shop, Class 2 office / professional services, Class 8 medical centre, Class 11 gym or restaurant / café including ancillary take away. I note points made by the planning authority regarding take away uses. I acknowledge the existing area is predominantly residential, however having regard to the nature of the proposed development and the land use zoning objective for the site, I am satisfied the proposed uses are acceptable in principle. Take-away uses are open for consideration in this zone, and given the take-away use is proposed to be ancillary to a restaurant / café, I consider it to be acceptable in principle. Whilst gym use is not specifically identified as a permissible or open for consideration use in the development plan, Section 15.14.11 of the plan does support the development of such uses in the City, and as such I am satisfied this use is also acceptable in principle on this site. The other proposed uses are permissible or open for consideration in this zoning. Overall I am satisfied the proposed uses are acceptable in principle in this regard.

### *Submitted indicative masterplan*

- 7.3. The development plan sets out specific requirements for the mix of uses on Z10 lands. Below I set out details of the proposed development in this context.
- 7.4. Development plan Section 14.7.10 states that in Z10 lands the focus will be on delivering a mix of residential and commercial uses, with a requirement that a range of 30% to 70% of the area of Z10 zoned lands can be given to one particular use, with the remaining portion of the lands to be given over to another use or uses. The primary uses supported in the development plan in this zone are residential, office and retail, with ancillary uses also facilitated where they deliver on the overall zoning objective. Section 14.7.10 also states that for very small sites (typically less than 0.5ha), flexibility on land use mix requirements may be considered on a case-by-case basis, where it can be demonstrated that the proposal would not result in an undue concentration of one particular land-use on the Z10 landholding as a whole. The development plan states there will be a requirement that for any significant

scheme on Z10 zoned lands seeking to increase densities and/or height a masterplan is prepared.

- 7.5. The applicant submitted a masterplan which covers c.82% of these Z10 lands. Of this portion, the subject site covers approximately one-third. The application includes a letter of support from the landowner of the remaining two-thirds of the masterplan area. The subject application proposes a mix of uses which is c.92% residential and c.8% commercial, however the mix of uses set out in the masterplan is c.60% residential and c.40% commercial. As such, whilst the percentage mix of uses proposed as part of the application alone does not align with the requirements of Section 14.7.10, the percentages set out in the submitted masterplan do.
- 7.6. Having regard to the foregoing, including the potential flexibility on land use mix set out in Section 14.7.10, to the size of the subject site (c.0.29sqm), the mix of uses proposed, and the submitted masterplan which covers the majority of the Z10 zoning in this area and which demonstrates that alignment with the development plan land use mix requirements can be achieved on these Z10 lands as a whole, I am satisfied with the overall mix of uses proposed as part of the application.

#### Reason for refusal

- 7.7. Having regard to the assessment set out below, overall I do not concur with the refusal reason that the proposal is contrary to Policy SI10 and that it would significantly limit future opportunities for river rehabilitation, enhancement of the riparian zone, floodplain and implementation of flood alleviation schemes. I acknowledge the proposal does not provide the minimum set-back distance of 10-15m stated in Policy SI10, however the proposal does provide a set-back of c.5-10m, and I am satisfied the development overall supports the objectives of Policy SI10 and the development plan and national policy and guidance in this regard. I set out below a number of considerations in this regard.

#### *Abbey Stream*

- 7.8. There is some divergence within the documentation on file as to the nature and significance of the watercourse running under and adjacent the site. I consider it worthwhile to set out details in this regard and to provide context for the refusal reason in relation to its reference to future opportunities for river rehabilitation and enhancement of the riparian zone.

- 7.9. The planning authority Drainage Division report (11/04/23) stated that a culverted section of the River Poddle crosses the site. The Drainage Division report in response to further information (24/10/23) refers to this as the Abbey Stream, which it states is part of the Poddle River System and part of the Poddle River Corridor. The application (Appropriate Assessment Screening Report) also refers to the watercourse as the Abbey Stream, but describes it as an artificial channel/branch of the Poddle Stream which is mostly culverted underground. The appeal then refers to this watercourse as a storm water sewer which was formerly the Abbey Stream. In this regard the appellant states that Irish Water records and the Greater Dublin Strategic Drainage Study also refer to this watercourse as a storm water sewer, however minimal supporting evidence in this regard is submitted. The appellant also includes Environment Protection Agency mapping which indicates the alignment of the Poddle River some c.350m to the east.
- 7.10. The development plan (Figure 10-3 'Dublin City's Main Rivers and Canals') indicates the Poddle River as running, broadly speaking, along the route of this watercourse. Based on the information on file, I am satisfied, and the parties appear to agree, that this watercourse is known as the Abbey Stream and that it forms part of or flows into the River Poddle, however I do so for identification purposes and not to prescribe any particular riparian quality.
- 7.11. For clarity, within the application boundary this watercourse flows in a culvert under the site for c.20m. At no point does the watercourse surface within the site, and no works to the watercourse culvert are proposed. Adjacent the application site, within White Swan Business Centre, the watercourse and culvert become visible. There, the watercourse runs open to the air for c.40m before returning underground again and onwards to the north under Donore Avenue. The watercourse flows under gravity pressure only. The watercourse at this point I estimate is c.1.5 to 2.5m wide and perhaps 0.5m deep. Where visible, the watercourse culvert is predominantly concrete and brick. The subject site is divided from the open stretch of the watercourse by a c.2m high boundary wall. Section and plan drawings of the existing culvert, including the underground portion, are submitted.
- 7.12. I am satisfied this watercourse is identified in the development plan as a river corridor to which Policy SI10 applies. Based on the available information I do not concur with the appellant characterisation of the watercourse as a storm water sewer

only, and I disagree with the appellant that Policy SI10 should not be applied. I acknowledge the appellant point that the existing waterbody presents as a culverted stream rather than a natural river, however in this regard I note Policy SI10 also seeks to 'create' an appropriate riparian zone, and that the development plan does not preclude watercourses that have been degraded.

*River rehabilitation and enhancement of the riparian zone*

- 7.13. The development plan and planning authority decision indicate that river corridor restoration strategies are still to be prepared, and interventions for river corridor restoration are to occur at some point in the future. There is no reference in the documentation on file of river restoration strategies or masterplans having yet been prepared in line with development plan Objective SIO8 and Section 9.5.2. The development plan sets out no specific plans for river restoration in the City for the Poddle or Abbey Stream. The development plan states that in the interim progressive restoration within river corridors is to be achieved by applying a recommended minimum setback distance from all rivers.
- 7.14. I consider the appellant point as to whether the existing watercourse is capable of rehabilitation requires to be addressed. In this regard, the applicant states that the Abbey Stream is culverted for c.95% of its length. I estimate that the Poddle River, which rises in Tallaght and enters the Liffey in Temple Bar, overall is culverted for c.50% of its length, most of which is within the City. These culverted sections run under dwellings, care homes, businesses, roads etc. for some kilometres.
- 7.15. I further note that the reason for refusal states that opportunities for future interventions should be preserved to help with climate change adaptation and support the objectives of the Water Framework Directive (WFD). I have had regard to the Water Framework Directive, and the provisions emerging from it in an Irish context, particularly in relation to the Poddle. Development plan Objective SIO5 seeks to take into consideration the River Basin Management Plan when considering new development proposals. Since the development plan was adopted the 2024 Water Action Plan River Basin Management Plan for Ireland has been published. The River Basin Management Plan identifies the Poddle River as a candidate heavily modified water body. Heavily modified water bodies are natural bodies of water which have been substantially changed in physical character as a result of

alterations by human activity. I understand that designation of a waterbody by the Minister as a heavily modified water body, amongst other things, acknowledges the significant adverse effect on the wider environment that full restoration of such a waterbody would entail. No decision from the Minister regarding the Poddle has issued in this regard.

*Proposed set-back*

- 7.16. Regarding the subject development, the proposed block as revised at further information stage is set back by between c.5m and c.10m from the watercourse. I acknowledge as referenced in the planning authority drainage division report that the exact alignment and extent of the culvert is not confirmed, however the location and alignment is indicated in submitted plan and section drawings. The works proposed above the underground section of the culvert generally comprises the provision of amenity space, landscaping, gravel paving, and a cycle stand. I note in the submitted masterplan, the works indicated within White Swan Business Centre adjacent the open section of the culvert comprise open space, landscaping and tree planters. Again, no works to the culvert or impact on the open channel of the watercourse are proposed or indicated as part of the subject application.
- 7.17. Development plan Policy SI10 and Section 9.5.2 indicate the objective of the 10m minimum setback is to, amongst other things, facilitate the creation of a riparian zone, restoration of natural processes and historical functioning of rivers, improve water quality and ecology, flood management, and climate change adaptation. The development plan does not require restoration measures as part of the development, and no site-specific measures for river rehabilitation or enhancement of this section of the Abbey Stream / Poddle are set out in the development plan.
- 7.18. Regarding the 10m setback requirement, I consider it useful to briefly reference the origins of this figure. The development plan refers to this as the 'recommended' minimum setback in line with the document "*Planning for Watercourses in the Urban Environment: A Guide to the Protection of Watercourses through the use of Buffer Zones, Sustainable Drainage Systems, Instream Rehabilitation, Climate / Flood Risk and Recreational Planning*" (2020). This document is a guide published by Inland Fisheries Ireland and is not issued as Section 28 Ministerial Guidance. It sets out buffer zones of varying distances from rivers; these are 'streamside' (>10m), 'middle'

(15-30m) and 'outer' (>8m). I note the guide also states that development management standards, policies and objectives should be set 'per watercourse'.

- 7.19. I note that regarding the submitted masterplan and the remainder of the Z10 lands, the application shows all new buildings on the adjacent White Swan Business Centre section of the masterplan (both north and south of the watercourse) set back from the culvert by approximately 4-8m. It also indicates the area around the watercourse route would comprises open space and circulation space. I note correspondence on file from the adjoining landowner expressing their support for the indicative masterplan, and the appellant commentary as to why a joint application has not progressed at this time.
- 7.20. No submissions were received from Inland Fisheries or Irish Water.
- 7.21. Overall I consider the proposed development broadly aligns with and facilitates the objectives of Policy SI10 and the related provisions of the development plan in these regards. I acknowledge the proposed set-back of c.5 to 10m does not meet the stated minimum of 10 to 15 m for the full length of the watercourse as it runs under and adjacent the site. However, I consider the proposal does provide for river rehabilitation and enhancement of the riparian zone as referenced in the planning authority decision, and also for the creation of an appropriate riparian zone as referenced in Policy SI10. As such, I do not consider the setback as proposed would significantly limit future opportunities for river rehabilitation and enhancement of the riparian zone or conflict significantly with the development plan.
- 7.22. In this context, with no specific proposals in place for river rehabilitation or enhancement of the riparian zone of the Abbey Stream or this section of the Poddle, and with such a large proportion of the Abbey Stream and Poddle covered by long-established, long-term development, I have concerns as to the reasonableness and soundness of rigidly applying the stated minimum setback to this site. I acknowledge the planning authority drainage division points that the small number of development sites along the watercourse length make their contribution all the more valuable, however conversely this raises a question as to the feasibility of achieving the objective in any foreseeable timeframe, and whether it places a disproportionate and unreasonable burden on the proposed development of this site.

7.23. In addition, I note that development plan Section 9.5.2 'Urban Watercourses and Water Quality' states that river corridor restoration seeks to support the restoration of natural processes and historical functioning of rivers as far as possible. Based on the available information on file, my understanding is that the progressive culverting and diversion of the Poddle in this area of Dublin commenced in the medieval period and continued piecemeal to the early 1900s, with localised works to the watercourse continuing to modern times, including on the adjacent site (Ref. 4261/03). As such, sections of the watercourse appear to have been culverted underground many decades ago in some cases, and centuries ago in others. In this regard, I note the closest structure to the river in the submitted masterplan would be Donore Castle, a protected structure, which is c.2m from the watercourse. I also note the development plan zoning maps and submitted archaeology report show that other sections of the Abbey Stream culvert to both the north and south appear to form part of a recorded monument (Ref. DU018-04304 'watercourse'). As such I do not consider it sufficiently clear in this case what the development plan reference to natural processes and historical functioning of this watercourse would look like to place such a specific burden on the site.

*Flood risk and flood alleviation*

- 7.24. I have reviewed the flooding related information submitted as part of the application and appeal, including the site-specific flood risk assessment. The report identifies the site is located in development plan Flood Zone C. It states no historic flood events affecting the site are recorded in OPW flood maps. It notes there are no issues with the local drainage arrangements. It concludes that the likelihood of flooding on site are minor and within acceptable levels.
- 7.25. The first-party appeal includes an appeal response document prepared by the applicant's consulting engineer in this regard. It expands on the risk of pluvial flooding, and on the potential flood risk arising as a result of a blockage where the Poddle re-enters the culvert. The appeal includes extracts from the Dublin City Council pluvial flood mapping and indicates some increased risk of pluvial flooding in the northern part of the site in close proximity to the open section of the culvert. The appeal response states however that review of the detailed topographical information available for the area was undertaken which indicated that, in the unlikely event pluvial flooding occurred at this location, and given the existing ground levels, water

would be directed away from the proposed development in a northern direction along Donore Avenue and would have no impact on the proposed development. A drawing of the flow route is included with the appeal (Drw. W026-CSC-ZZ-DR-C-0059 'Flood Exceedance Route/Extents'). The document concludes the proposed development will not be at significant risk from pluvial flooding and the development will not significantly increase risk of pluvial flooding.

- 7.26. I note the appeal also states that the potential for these lands to provide for future flood alleviation measures is minimal due to the location, size, topography and constraints along the line of the watercourse.
- 7.27. Regarding proposed ground levels, the existing site is relatively level, with the northern portion being slightly lower (by c.0.1-0.2m). The proposed finished ground level (+20.58) will be broadly in the middle range of the existing levels on site. This means that generally the northern end adjacent the Abbey Stream will be at a similar but more uniform level than it is now. Again, no works to the Abbey Stream culvert / channel are proposed, and I estimate the current water level is c.1.5 to 2m below the prevailing ground level. I also note the existing site is largely covered in hardstanding, and that the proposal will decrease the extent of hard surfacing on the site and overall significantly improve the management of surface water onsite. I note too that the proposed development will drain ultimately to the adjacent public mains network and will not to the Abbey Stream.
- 7.28. No submission from Irish Water was received.
- 7.29. In summary, whilst the Poddle is a significant factor in flood risk along its length, this site and its immediate vicinity are not within Flood Zone A or B, and there is no recorded history of flooding of the site or the immediate vicinity, including from the Abbey Stream. The engineering response included within the appeal further addresses pluvial flood risk relating to the Abbey Stream, and highlights pluvial flooding in this location is unlikely; that it would be restricted to the north of the site; and that in such an event waters would be directed away from the proposed development in a northern direction and would follow an route along Donore Avenue.
- 7.30. I also note that whilst the refusal reason makes reference to floodplain and implementation of flood alleviation schemes, the final planning authority drainage

division report (24/10/23) made no reference to flooding and did not recommend refusal in this specific regard.

- 7.31. In addition, the planning authority have not identified specific flood alleviation schemes or other flood risk management measures relating to the site which the proposed development would limit or conflict with.
- 7.32. Overall then I do not consider there is sufficient evidence the proposal would significantly limit any floodplain or implementation of flood alleviation schemes as stated in the reason for refusal, or that it would be at significant flood risk or would worsen flood risk on adjacent lands. As such I consider refusal in these regards is not warranted.

*Planning authority drainage division conditions*

- 7.33. Whilst the planning authority drainage division report recommend refusal, the report stated that should consideration be given to a grant of permission based on other overriding factors, a number of conditions were recommended. In relation to the Abbey Stream the report recommended that the exact location and levels of the culvert be determined; indication of setback distances from the culvert to the proposed foundations; demonstration that no additional loading will be placed on the culvert; and that adequate separation distances from the culvert to the proposed building will be provided to facilitate future access and maintenance of the culvert. I note the information submitted by the applicant in this regard including Drawing no. W026-CSC-ZZ-XX-DR-C-0070 which sets out indicative details of the horizontal and vertical alignment of the culvert. Having regard to the scale and extent of the culvert adjacent the site, and the general alignment indicated on the file, I am satisfied that these requirements can be facilitated by the proposed development and that these requirements can be achieved by condition.

*Conclusion*

- 7.34. The refusal reason stated the proposal is contrary to Policy SI10 and would significantly limit future opportunities for river rehabilitation, enhancement of the riparian zone, floodplain and implementation of flood alleviation schemes. Policy SI10 requires proposals within or adjacent river corridors to provide for a minimum set-back distance of 10-15m in order to create an appropriate riparian zone. The planning authority drainage section reports stated the proposal would limit future

opportunities along this stretch, and further that the congested nature of the waterbody corridor at this location makes this opportunity all the more valuable. Conversely, the appellants indicate that it is not this proposal that will prejudice the future restoration of a river or provision of a riparian corridor as this is unachievable up and downstream.

- 7.35. The proposed block is to set back between c.5 and 10m for the full length of the watercourse through and adjacent the site. I consider that as set out in development plan Section 9.5.2 'Urban Watercourses and Water Quality', the proposal provides 'room for the river', including space for significant improvement of the watercourse, river rehabilitation interventions, and enhancement of the riparian zone in line with development plan policies and objectives. This setback is to be occupied by open space with minimal structures alongside and over the culvert.
- 7.36. I acknowledge the proposal does not meet the stated minimum in full, however, considering the absence of specific proposals for river restoration or rehabilitation, or enhancement or creation of the riparian zone of the Abbey Stream or Poddle, I consider the rigid application of a 10m minimum setback in this case places a disproportionate and unreasonable burden on the development given the proposal broadly aligns with the policy objectives of the development plan in this regard, and given the absence of proposals for achieving the stated policy objectives in any foreseeable timeframe.
- 7.37. In this context I do not consider the setback as proposed would unreasonably limit future opportunities for river rehabilitation and enhancement of the riparian zone or conflict significantly with the development plan, or that the granting of permission for the proposed development would set a poor precedent for development or would have a severe impact on the proper planning and sustainable development of the City. On balance I do not consider the proposal warrants refusal in these regards.
- 7.38. In relation to flooding, the site is not within Flood Zones A or B and I am satisfied the appellant has demonstrated that there is a reasonably low risk of flooding at the site, including arising from the Abbey Stream, and that the proposed development would not increase flood risk, and that the proposal would not significantly limit any floodplain or implementation of flood alleviation schemes.

*Material contravention*

- 7.39. For completeness I consider that whilst the proposed development broadly aligns with the policy objectives of the development plan in this regard, including those of Policy SI10, the proposed setback **materially contravenes** the specific setback distances set out in Policy SI10.
- 7.40. **Section 37(2)(a) of the Act** provides for the Board in determining an appeal to grant permission even if the proposed development contravenes materially the development plan. Section 37(2)(b) 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 37(2)(a) in specific circumstances. Whilst Section 37(2) of the Act reads that subsection (b) only applies where a planning authority has decided to refuse permission on the grounds that a proposed development materially contravenes the development plan, a broader interpretation has been taken by the Courts. As such, whilst in the subject case the planning authority did not refuse permission on grounds of the development materially contravening the development plan, I consider Section 37(2)(a) and (b) should be applied in this case.
- 7.41. In this context, I consider criterion (iv) of subsection (b) is applicable – that “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”. My main reasons and considerations in this regard are that the current pattern of development in the area, where such a large proportion of the Abbey Stream and Poddle is covered by long-established, long-term development, raises a question as to the feasibility of achieving the stated objectives of the development plan in this regard in any foreseeable timeframe, such that requiring full compliance with the minimum setback meterage stated (that is, 10 to 15m) when the proposal incorporates a substantial setback (that is, c.5 to 10m) and overall supports the policy objectives of Policy SI10 I consider places a disproportionate and unreasonable burden on the proposed development of this site. Having regard to the foregoing, and the relatively small size of the site in the context of the stated objective of restoring the watercourse, I consider the proposal is acceptable.

Other matters raised in the course of the appeal – New Issues

7.42. The appeal includes specific points in relation to a number of other matters raised by the planning authority at further information stage and by third party observations on the application. These include specific points in relation to impacts on the residential amenity of Elford Terrace; the layout of certain studio units; the proposed scale; residential amenity; separation distances; traffic; drainage; impact on protected structures; and construction impacts. The appeal sets out further minor changes to the scheme in response to some of these matters. My assessment below considers these and other related issues which I consider are relevant to the case. The Board may wish to seek the views of the parties on these matters. However, considering the relatively minor extent of changes proposed I do not consider this is necessary.

#### Building height and density

##### Height

- 7.43. The proposed building ranges in height from 2 to 6 storeys. I have assessed the development against the requirements of the development plan, including Section 14.6 Transitional Zone Areas, Policy SC16 Building Height Locations, Policy SC17 Building Height, and Appendix 3 of the development plan.
- 7.44. The planning application sets out detailed considerations of the proposed height, including in relation to the Building Height Guidelines and development plan, including development plan Appendix 3 within the submitted planning report.
- 7.45. In relation to building height in the area, whilst heights vary, I would characterise the prevailing height as 2-storeys and equivalent, with some 4-storey structures in the area, as well as larger religious buildings including St. Catherine & St. James church and St. Teresa's Church equivalent to 4 or more storeys.
- 7.46. The development plan states that the Building Height Guidelines note that general building heights of at least three to four storeys, coupled with appropriate density in locations outside what is defined as city centre must be supported in principle at development plan level. The guidance also states that within the canal ring it would be appropriate to support the consideration of building heights of at least 6 storeys at street level as the default objective, subject to keeping open the scope to consider even greater building heights. It states that in considering locations for greater height and density, all schemes must have regard to the local prevailing context within which they are situated. It states that this is particularly important in the lower-scaled

areas of the city where broader consideration must be given to potential impacts such as overshadowing and overlooking, as well as the visual, functional, environmental and cumulative impacts of increased building height.

- 7.47. As such, I consider the proposed height of 2 to 6 storeys plus roof overrun is in principle acceptable.

Dublin City Development Plan, including Appendix 3:

- 7.48. Development plan Policy SC16 recognises the predominantly low-rise character of Dublin City alongside the potential and need for increased height in appropriate locations including locations as identified in development plan Appendix 3.
- 7.49. Appendix 3 states that as a general rule buildings of between 5 and 8 storeys, including family apartments and duplexes, are promoted in the key areas identified. It states that in relation to the 'City Centre and within the Canal Ring (inner suburbs)', a default position of 6 storeys will be promoted within the canal ring subject to site specific characteristics, heritage/environmental considerations, and social considerations in respect of sustaining existing inner city residential communities.
- 7.50. Based on the foregoing, I consider the development plan recognises the need for increased height in locations such the subject site, and within the subject area promotes building heights at or in excess of that proposed, provided proposals provide reasonable protection of, amongst other things, existing amenities and the character of the area, as well consideration of impacts such as overshadowing, overlooking, visual and cumulative impacts, site specific characteristics, heritage/environmental considerations, and social considerations in respect of sustaining existing inner city residential communities.
- 7.51. Section 15.5.4 of the plan states that Appendix 3 identifies the height strategy for the city and the criteria in which all higher buildings should be assessed. Appendix 3 states the performance criteria to be used in assessing urban schemes of enhanced density and scale are set out in Table 3 of Appendix 3. The table sets out 7 no. objectives and 30 no. performance criteria; I have reviewed the proposal against each criterion and I consider that it generally supports the objectives and meets the performance criteria as stated, as follows:

|                                                                                           |
|-------------------------------------------------------------------------------------------|
| Table 1: Assessment of proposed development against development plan Appendix 3 criteria. |
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|                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|----------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. To promote development with a sense of place and character                    | The proposed form, height and location of the block will aid in identifying and establishing a sense of place for the mixed-use Z10 lands within the wider residential area. The proposed form, design and brick materials will aid in integrating the proposal within the prevailing period architecture of the area. The proposed setback will provide for public space between the proposed local commercial units and public road.                                                                                                                                                                                                                                                                                  |
| 2. To provide appropriate legibility                                             | The proposed block is to be set back c.3-8m from the roadside. This space is to be landscaped as publicly accessible circulation space. The western elevations are to be 2-4 storeys, which reflects the adjacent existing development. The main materials proposed are brick, as per the existing area. To the rear the proposed block steps up in height to 6 storeys. A masterplan is submitted which shows how the proposed block will integrate into the overall development of these Z10 lands. Based on the information submitted I am satisfied as to how the proposal will read as a contemporary block within the historical environment to the north and west, and future development to the south and east. |
| 3. To provide appropriate continuity and enclosure of streets and spaces         | A setback from Donore Avenue is proposed. The 2 no. commercial units will address the street. Hard landscaping and cycle parking is proposed between the block and existing road. I consider the proposal strikes an appropriate balance between providing public and circulation space alongside appropriate continuity and enclosure of street and spaces.                                                                                                                                                                                                                                                                                                                                                            |
| 4. To provide well connected, high quality and active public and communal spaces | The setback from Donore Avenue provides appropriate public and circulation space. Open space along the route of the Abbey Stream is proposed. This space is not public space, but is designed that it may become public space as part of the overall masterplan lands. Communal open spaces above ground and along the route of the Abbey Stream are proposed. I consider these spaces are reasonably well connected and high-quality spaces.                                                                                                                                                                                                                                                                           |
| 5. To provide high quality, attractive and useable private spaces                | Private spaces are proposed for all apartments at ground and above-ground levels. These spaces generally meet local and national requirements. Ground floor private spaces are well protected from communal spaces. I consider these spaces to be of a sufficient high quality, and sufficiently attractive and useable.                                                                                                                                                                                                                                                                                                                                                                                                |
| 6. To promote mix of use and diversity of activities                             | The proposal comprises 68 no. apartments and 2 no. commercial units. A number of uses are proposed for the units which are generally appropriate for local facilities and services, subject to conditions regarding some of the uses proposed. I am satisfied the proposed mix of uses and diversity of activities aligns with the zoning objective for the area.                                                                                                                                                                                                                                                                                                                                                       |

|                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                     |
|--------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 7. To ensure high quality and environmentally sustainable buildings            | The proposed building generally meets all local and national planning requirements, subject to conditions relating to detailed design and finishes. Appropriate sustainable urban drainage features are incorporated into the building and site. Overall I am satisfied the proposed building will be of a sufficiently high quality and in line with environmental sustainability planning requirements.           |
| 8. To secure sustainable density, intensity at locations of high accessibility | The proposed density aligns with local and national requirements in this regard, including in relation to achieving an appropriate intensity for this largely residential context close to the City Centre, and the existing higher capacity public transport services within walking distance.                                                                                                                     |
| 9. To protect historic environments from insensitive development               | There are 2 no. protected structures adjacent the site. The site is within the notification zones of 2 no. protected monuments. The information submitted considers and assesses the proposal in the context of these structures and features. I consider the proposed design, form and materials has due regard to the historic environment. I am satisfied the proposal protects the historic environment.        |
| 10. To ensure appropriate management and maintenance                           | Property management strategy, operational waste management plan, mobility management plan, and building lifecycle report are submitted. Small areas to the front of development adjacent Donore Avenue are to be taken in charge. The remainder of the development is to be managed by a management company. I am satisfied the operation of the proposed development will be appropriately managed and maintained. |

7.52. Overall, having regard to the provisions of the development plan, including Policy SC16 and Appendix 3, I consider the proposal to be within the height range stated by the development plan for the area within the canals. Having regard to the local prevailing context; to amenity, visual, functional, environmental and cumulative impacts; as well as to heritage, environmental, and social considerations in respect of sustaining existing inner city residential communities, I am satisfied the proposal provides for the reasonable protection of existing amenities and environmental sensitivities, of residential amenity, and of the established character of the area (I set out more detailed commentary in relation to residential amenity in separate headings below). Whilst the proposal represents a substantial building in terms of height, form and scale, I am satisfied it has been sufficiently stepped in height away from the adjacent residential buildings, and modulated in form to reduce the scale and mass to ensure it is consistent with development plan policy and national guidelines.

- 7.53. In relation to the Building Height Guidelines, and taking account of the wider strategic and national policy parameters set out in the National Planning Framework and the Guidelines, I consider the proposed height, form and scale is acceptable for the reasons set out above, and I consider the proposal is generally consistent with the provisions of the Building Height Guidelines, including SPPR 3.
- 7.54. Regarding visual impact, I have reviewed the visual impact assessment and submitted drawings and CGIs. Whilst the proposed block would be a substantial and locally prominent addition to the area, particularly when viewed from the west, on balance I am satisfied the height, scale and visual impact of the proposal is consistent with the policy objectives for the area. I note the planning authority recommended removal of apartments 401 and 501 partly on account of visual impact. These are the studio apartments at the corner of the northern and western elevations at 4<sup>th</sup> and 5<sup>th</sup> floor. I do not concur that these units require to be removed; in this regard I consider removal of these units would not have a significant impact in this regard and would serve to imbalance the form of the block.

#### Density

- 7.55. Having regard to the provisions of the Compact Settlement Guidelines 2024, I would characterise the area as an accessible location and an Urban Neighbourhood. As such, the proposed density of c.235 dwellings per hectare in this area is consistent in principle with relevant policy and guidelines.
- 7.56. Having regard to the development plan, the proposed density is within the net density range for the Canal Belt (Table 1, Appendix 3). I note Appendix 3 of the development plan states the density of a proposed development should respect the existing character, context and urban form of the area, and seek to protect existing residential amenity. I consider the proposal achieves this, subject to conditions in relation to materials and detailed design.
- 7.57. Due to the mix of uses proposed I have also considered the plot ratio and site coverage. I estimate the proposed plot ratio is c.1:2.4 and the proposed site coverage is c.60%. These figures are within the indicative ranges outlined in the development plan (Appendix 3, Table 2 '*Indicative Plot Ratio and Site Coverage*').
- 7.58. I note the plot ratio and site coverage figures for the submitted masterplan (1:2.18 and 47% respectively) are also in line with the development plan indicative ranges.

- 7.59. Having regard to the proposed density, these lower plot ratio and site coverage figures are consistent with a taller form of the development. Whilst these figures are relatively low, I am satisfied the density, height, form, layout and standard of development is acceptable.

Residential amenity

- 7.60. I have reviewed the information submitted with the application and appeal in this regard, including the sunlight, daylight & overshadowing assessment; housing quality assessment; inward noise & air quality assessment; indicative masterplan; and design statement, including as revised at further information stage. I have also had regard to the planning authority planner report in response to further information. I note the conditions relating to residential amenity referred to in the report. I set out details of my considerations in this regard below:

*Overlooking*

- 7.61. Regarding overlooking, there are mainly commercial uses from north-east to south-west. The closest residential units are to the west (Nos. 71 to 79 Donore Avenue) and north-west (Elford Terrace and the end of School Terrace). The proposed block is generally set back from and also stepped down in height nearest these units such that it is 2-storeys closest to Elford Terrace and the end of School Terrace, and 3-storeys closest to No. 71 Donore Avenue.
- 7.62. The closest apartment windows to Elford Terrace and the end of School Terrace would be over c.16m away at first floor, with each of the subsequent floors set progressively further back. I am satisfied no significant overlooking would arise in this regard, however given the height differential I consider it warranted that translucent glazing is provided in this elevation for balcony glazing, the bottom half of windows on floors 1, 2 and 3, and along the rooftop communal space at 4<sup>th</sup> floor to ensure there is no potential overlooking of Elford Terrace and No. 71 Donore Avenue.
- 7.63. Regarding No. 71 Donore Avenue, there are two windows to the rear of No. 71 adjacent the site, as well as a rear amenity space. One window in the rear return faces north toward the site, and the other in the rear elevation faces to the south-west. Review of planning permission Ref. 3103/20 indicates the window facing toward the site is a bathroom. This bathroom window is finished in translucent glass

and at its closest to the proposed apartment windows is c.12m away, and as such I have no concerns of overlooking in relation to this window. The other window is to a bedroom.

- 7.64. Regarding the bedroom window, the rear elevation is angled away from the block. The proposed block is 3-storeys at its closest to this window and at this point it would be c.11m between the existing and proposed windows. The third floor is set further back (c.13m away) however the proposed balcony is also c.11m away. The proposed block then steps up to 6 storeys at a distance of c.15m. The remainder of the proposed windows in this elevation are set further away by at least 16m. I note the provisions of SPPR 1 'Separation Distances' of the Compact Settlement Guidelines in this regard. Given the foregoing, in particular the proximity and relative height differential of the proposed apartments at this point, I consider that mitigation is required to ensure the reasonable protection of privacy in relation to the rear bedroom window and rear private amenity space of No. 71. I consider that angled windows as per those proposed elsewhere along this elevation are required for the specific apartment windows in this elevation that are under 16m in distance from the rear elevation (that is, the rear windows of apartments nos. 101, 113, 201, and 216). I also consider that translucent glazing is required for all balconies in this elevation. I consider these details can be agreed by condition.
- 7.65. Regarding Nos. 73 to 79 Donore Avenue, these dwellings are further away from the proposed block and given the distances involved and the screening provided by the existing rear elevations of the neighbouring dwellings I have no concerns of significant overlooking in these regards.

#### *Natural light*

- 7.66. Regarding natural light, the submitted sunlight, daylight & overshadowing assessment identifies detrimental impacts to the rear of No. 71 Donore Avenue and to two units in Elford Terrace. For No. 71 Donore Avenue, these impacts would be to one rear bedroom window (that is, a reduction in vertical sky component (VSC) from 29.5% to 16.5%). For the dwellings on Elford Terrace, the impacts would be to two ground floor habitable front windows and would be marginal in extent (that is a reduction in VSC from 36.4% and 36.5% to 26.3% and 26.4% respectively). I note again the proposed block steps down toward both No. 71 and Elford Terrace; is 2-

storeys in height at closest to both; and is set back away from both. Whilst there will be a detrimental impact in terms of daylight on these windows, and the impact would be noticeable for the residents, I consider that on balance this extent of impact is acceptable. In this regard I consider these windows would continue to receive an acceptable degree of natural light throughout the year, particularly in the afternoons and evenings for No. 71, and in the mornings and evenings for Elford Terrace. I am satisfied that on balance the resulting impacts in this inner-urban location are acceptable.

- 7.67. Regarding internal natural lighting for the proposed development, I note 13 no. rooms of 171 no. rooms proposed do not meet guideline requirements, with a further 7 no. rooms marginally short of guideline requirements. These rooms are mainly ground floor units, or north-facing units located at corners within the elevations. Having regard to the foregoing; to the overall amenity achieved for the development including these rooms; and given the brownfield and urban nature of the site, I am satisfied the proposal is acceptable in these regards.

#### *Occupant amenity*

- 7.68. Regarding internal amenity, I consider the proposed apartments generally meet the qualitative and quantitative requirements of the development plan and national guidelines, and I consider they would provide for an acceptable level of resident amenity and private amenity space.

#### *Amenity space*

- 7.69. Regarding private amenity space, I note the planning authority planner report recommended conditions regarding balcony depths; having reviewed the proposed balcony layouts I do not consider this condition is necessary as the layouts generally meet the requirements of the city development plan and national guidelines.
- 7.70. Regarding communal amenity space, the open spaces at 4<sup>th</sup> and 6<sup>th</sup> floor, and along the northern boundary of the site are proposed as communal spaces. Approximately 415sqm of communal amenity space is required for the proposal. Of the 415sqm proposed at ground floor, c.127sqm receives sufficient sunlight. Of the c.450sqm proposed at roof level, the 6<sup>th</sup> floor portion (c.180sqm) has limited if any passive surveillance. As such, I estimate that approximately c.397sqm of the proposed communal amenity space receives sufficient sunlight and benefits from passive

surveillance. Noting the total communal amenity space proposed of 865sqm I consider that this is acceptable.

- 7.71. Regarding access to communal open space, the planning authority planner report recommended conditions to ensure access to communal amenity space for all apartments. Given the proposed layout which includes 3 no. separate units off the main shared corridors and 2 no. separate communal open spaces above ground I consider this is warranted.
- 7.72. Regarding public open space, no public open space is proposed as part of the development. The development plan requires c.285sqm of public open space (10% of site area) be provided on this site. The submitted masterplan indicates the space along the northern boundary is to form part of a larger area of public open space extending to the north and centred around the watercourse when the remainder of the Z10 lands are developed. The planning authority planner report recommended conditions requiring this space to be publicly accessible in the future when the remainder of the Z10 lands are developed. Of the c.450sqm open space proposed at ground floor, above I have counted 127sqm as contributing to communal open space (this generally equates to the southern end of this space identified as water feature, seating area and natural play & seating area on submitted landscape drawing No. 7744-L-2000 Rev. 00 from Park Hood Chartered Landscape Architects). The remaining c.323sqm of this space does not generally achieve a minimum of 2hrs sunlight on the 21st of March. This area exceeds the development plan minimum quantum public open space required for this application. However, I do not consider this space on its own should be public open space due to its long, narrow shape, single access point, and poor natural lighting. I also have some concern as to the practical application of a condition requiring this space to be retained for public open space, including in relation to the northern boundary wall proposed as part of this application. I consider this space should be retained as circulation and general amenity space and that proposals for its use within the overall development of the Z10 lands be brought forward in time. As such I consider a contribution in lieu of public open space is warranted, and a condition should be attached in this regard.

*Noise*

- 7.73. Regarding noise, the planning authority planner report recommended conditions be attached in relation to internal noise mitigation on account of the adjacent Business Centre. I have reviewed the inward noise and air quality assessment submitted with the application. The report incorporates a noise survey of the site, including adjacent White Swan Business Centre. The results indicate noise impacts on the residential development would in general be low, with the main impacts being vehicular movement related to the Business Centre. The report states no industrial or commercial noise was observed during the day and night periods of the survey. Section 4.4 of the report sets out intended noise mitigation which is to comprise acoustically rated / sound insulated glazing. No report from the planning authority environmental health officer is recorded on the file. Having regard to the foregoing, I consider that a condition in this regard should be attached.
- 7.74. Further in this regard, I note the submitted noise report does not consider potential noise impacts arising from the proposed commercial units located at ground floor. The proposed uses include gym, restaurant / café and ancillary take away. I consider there is potential for detrimental noise impacts to arise for existing and proposed dwellings. I consider a standard operational condition in relation to noise impacts is warranted to mitigate any potential unacceptable impacts in this regard.

*Internal apartment layouts*

- 7.75. The planning authority planner report also recommended conditions be attached in relation to the layout of units 101 and 201 and in relation to clarity of drawings. Having reviewed the details of the proposed development, I consider it is generally acceptable in these regards and broadly accords with the policy and guideline requirements and as such I do not consider these conditions are warranted.

*Conclusion*

- 7.76. In the above regards, on balance I consider the proposal to be acceptable given the overall moderate impacts on existing neighbour residential amenity, the quality of housing provision proposed on this brownfield site, and the broader consistency of the proposed development with policy and guidelines. In this regard the design has sought to moderate impacts on residential amenity in particular through the setting back of the proposed block and the stepping of height progressively away from

existing dwellings, and as such I consider it to be acceptable subject to conditions as set out above.

#### Conservation and heritage

- 7.77. There are two protected structures and two sites of archaeological importance in the immediate area. I have reviewed the submitted design statement, heritage impact assessment, indicative masterplan, and archaeological survey.
- 7.78. Regarding conservation of the built environment, the development plan records a protected structure in the adjacent lands to the east (Ref. 2325 'Donore Castle'). This structure is located amongst the buildings in White Swan Business Centre and appears to be used as part of the Business Centre. It is located c.4m from the boundary of the subject site on the far side of the abovementioned culvert. St. Catherine & St. James Church to the west is also a protected structure.
- 7.79. No report from the planning authority Conservation Officer was received.
- 7.80. Having regard to the foregoing, and considering the location of the Donore Castle protected structure on the adjacent site, and its position within the existing warehouse development, I am satisfied the subject proposal and submitted masterplan demonstrate that due regard has been had to its special interest and character, and would not have a significant detrimental impact in this regard.
- 7.81. Regarding St. Catherine & St. James Church, the church building is set back from St. Catherine's Avenue and is largely screened from the development by Nos. 71 to 79 Donore Avenue and by Elford Terrace. When viewed from the west along St. Catherine's Avenue and when viewed from the north along Merton Avenue, the proposed block would be visible in the context of the Church. I consider the stepped nature of the western elevation of the proposed block, and the proposed red brick will aid in moderating the visual impact of the proposed block in this regard. Overall I am satisfied the proposal would not have a significant detrimental impact on views of the Church, or on the special interest of the structure and its setting.
- 7.82. More generally, the area has strong Victorian- and Edwardian-era architecture and built form in the area, characterised primarily by 2- and 3-storey terraces and red brick. I note the proposed building form is part 2-storey along Donore Avenue which I consider reflects the scale and proportions of the terrace opposite. The building steps up in height gradually behind this. Regarding materials, I note the prominent

red-brick proposed including for the front 2- and 4-storey elements, with a light grey cladding on all elements above 4 no. storeys. I consider the proposed cladding on the upper levels to the rear will serve to reduce its visual impact and maintain emphasis on the red-brick at the lower levels. I am satisfied that the red brick proposed along Donore Avenue and stepped height will complement the existing area, and provide for the appropriate integration with the prevailing period dwellings and other structures in the area. I also note the tree planting and set back from the road. I am satisfied the proposed layout and design, whilst contemporary, appropriately reflects and integrates with the prevailing urban design of the area.

- 7.83. Regarding archaeology and heritage, parts of the site are within the Zones of Notification for two recorded monuments. Recorded monument site (Ref. DU018-047001, 'Castle') relates to a site called 'Donore Castle / Mills'. The Heritage Council records the site as that of Donore Castle / Mills but that no visible surface trace remains. The site is also within the notification zone for (Ref. DU018-04304 'Watercourse'). The submitted archaeology report refers to this as a culverted tributary of the River Poddle referred to as the Abbey Stream. Based on the submitted archaeology report and the development plan maps, and review of the Sites & Monuments Record it does not appear that the section of culverted Abbey Stream through the subject site and the adjacent White Swan Business Centre forms part of the this recorded monument, but that sections to the north and south do.
- 7.84. No works to either monument are proposed. The submitted archaeological survey report sets out precautionary mitigation (Section 5.2). I have reviewed the report from the City Archaeologist, including recommended conditions; the report concurs with the mitigation suggested in the submitted archaeology report (that is, archaeological testing and monitoring of construction).
- 7.85. No submission from the Development Applications Unit of the Department for Housing, Local Government and Heritage was received.
- 7.86. Having regard to the location of the proposed development within the two referenced exclusion zones, and the results of testing and construction on the site, I am satisfied that the proposed development is acceptable in this regard subject to the mitigation proposed in the submitted archaeological survey report regarding testing and monitoring.

## Roads and traffic

- 7.87. The development is to be served by one vehicular access, from Donore Avenue. Parking for the apartments and commercial units as well as a set-down area is proposed within the site. No basement is proposed. A second, bollard-controlled access from Donore Avenue is to be available for emergency services from the existing access point. Cycle parking is proposed within the site.
- 7.88. I have reviewed the response to further information, and the submitted traffic and transport statement, car parking management plan, road safety audit response, design statement, road safety audit, mobility management plan, service delivery & access strategy, drawings, and sightlines & swept path analyses. I note changes recommended in the road safety audit have largely been incorporated into the layout.
- 7.89. The planning authority roads section recommended permission be granted subject to conditions in relation to construction and demolition management, and mobility management, pedestrian crossing details, access width, footpaths, materials, mobility management, car parking management, cycle parking, electric vehicle charging, costs, and code of practice. I note that 50% of the parking spaces proposed are to be equipped for electrical charging.
- 7.90. Regarding vehicular access, a number of swept-path analyses drawings are submitted, however none clearly show turning ability for vehicles on-site when all parking spaces are full. The planning authority roads section report highlighted some minor issues of overhang, and indicated these matters can be dealt with via detailed design by condition. The proposed internal road is generally 6m in width. I consider details of the proposed layout require to be agreed to ensure sufficient space for vehicles to manoeuvre safely and efficiently within the site, particularly when all parking spaces are occupied. I consider a revised condition should be attached for details in this regard to be agreed with the planning authority, including that spaces be removed if sufficient manoeuvrability is not fully demonstrated.
- 7.91. Regarding parking provision, the response to further information indicates 16 no. residential spaces (which equates to c.0.24 no. spaces per apartment, 3 no. car share spaces, and 2 no. commercial spaces are proposed. Parking is to be managed by a management company. Electric vehicle and disabled parking are provided generally in line with development plan requirements.

- 7.92. I have reviewed the provisions of the current development plan (2022-2028) in this regard, including Policy SMT27. Regarding residential parking, development plan Appendix 5 Table 2 'Maximum Car Parking Standards for Various Uses' indicates a maximum car parking standard of 0.5 spaces per dwelling for apartments in this area (Zone 1). The development plan states that a relaxation of maximum standard will be considered in this zone for a site within a highly accessible location. I note the provisions of the Apartment Guidelines and Compact Settlement Guidelines. I am satisfied SPPR 3 of the latter provides in principle for car parking to be minimised, reduced or wholly eliminated in this case.
- 7.93. I have reviewed the planning authority road planning division report, and references to the proximity to public transport and minimal local provision of cycle infrastructure. The report recommended permission be granted subject to conditions, including a condition for the agreement of a mobility management plan and car parking management plan. In this regard I note that a mobility management plan including a car parking management plan was submitted with the application.
- 7.94. The site is less than 170m walk to high-frequency bus services (that is, less than every 10 minutes frequency) on the South Circular Road, and c.590m from Cork Street which is to be a Spine Route as part of BusConnects. I consider cycling infrastructure in the area is relatively poor. The site is connected to the local pedestrian network. Much of the on-street parking in the immediate area is managed, however I note uncontrolled parking on some nearby streets (eg. Greenville Avenue).
- 7.95. The submitted traffic and transport assessment sets out a rationale for the proposed parking provision. I note points made in relation to the location of the site in the City, proximity to public transport, lower car ownership levels amongst apartment residents, and proximity to car and cycle sharing services. Having regard to the foregoing, I am satisfied the proposed residential provision alongside the proposed car shares spaces, all of which will be managed, provides appropriate and sustainable residential parking and which is acceptable.
- 7.96. Regarding parking for the commercial units, c.469sqm net commercial floorspace is proposed. Given the nature of the uses proposed I consider the most appropriate land use category in the development plan in this regard is 'other retail' which sets

out a maximum target of 1 space per 350sqm net which I consider in practice equates to a maximum target of 2 spaces for this development. The applicant proposes 2 no. spaces for the commercial units. Considering the inner suburban, residential location of the development; the nature and relatively small size of the commercial units; and the way in which the units would be utilised by local and passing users which would likely comprise a higher frequency of short stays, I consider the provision is acceptable and accords with the development plan.

- 7.97. Regarding works to Donore Avenue, I have reviewed the planning authority roads planning division report in response to further information. It states no objection subject to conditions. I am satisfied conditions relating to details of the controlled pedestrian crossing, footpaths, materials in public areas, and costs are warranted to appropriately integrate the proposal into the existing street, subject to inclusion of a condition requiring financial security in relation to completion of works to the public realm.
- 7.98. Regarding cycle parking, long and short stay spaces, and spaces for residents, the commercial units, and visitors are proposed in excess of development plan requirements. Motorcycle parking is also proposed in line with development plan requirements. I am satisfied with the proposed provision in this regard.
- 7.99. Overall I am satisfied the proposal is acceptable in this regard subject to revised conditions as set out above.

#### Water and drainage

- 7.100. I have reviewed the submitted proposals in this regard, including the submitted drawings and engineering services report.
- 7.101. The planning authority drainage division report in response to further information stated that should consideration be given to a grant of permission, the division recommended standard conditions in relation to separation of foul and surface water drainage systems, connection to public surface water network, incorporation of sustainable urban drainage systems, attenuation, petrol interception, construction details and detail design of drainage. A condition was also recommended in relation to the detailed design of the development in relation to the existing Abbey Stream culvert to ensure no additional loading on the culvert from the development.
- 7.102. No submission from Irish Water was received.

7.103. I note the site was, until more recent times, occupied largely by warehouse-type structures and hardstanding. The site today is covered largely in hardstanding. The site is in an urban location and served by mains drainage. Sustainable urban drainage systems are proposed in the form of permeable paving for the parking area and internal road; a bioretention area / rain garden in the amenity space along the north-western side of the site; green roofs and amenity spaces at roof level; and an attenuation tank adjacent the access, all of which will discharge to the existing public drainage network. Given the location of the proposal I am satisfied sufficient water and drainage infrastructure will be available to serve the development. Overall I am satisfied with the proposals in this regard subject to conditions as set out above.

#### Construction management

7.104. Regarding construction management, I have reviewed the submitted construction & demolition waste management plan, construction & environmental management plan (CEMP), planning reports, and response to further information in this regard. A standalone construction management plan (CMP) is not submitted, however the submitted CEMP contains much of the details that would normally be provided in a CMP and states that a CMP will be prepared. The CEMP identifies the presence of two invasive species including Japanese Knotweed on site, and sets out invasive species-specific mitigation. I note the commentary and conditions recommended by the planning authority roads section in relation to construction management. I also note the management of invasive alien species is also required under a separate regulatory regime. Overall I am satisfied with the proposal in this regard, subject to a condition in relation to construction management.

7.105. Regarding the Abbey Stream, for completeness I note no works to the existing culvert are proposed, either as it runs underground through the subject site or open to the air within the adjacent the site. The application proposes to remove the existing boundary wall that runs adjacent the Stream, and to construct a similar block wall in part along the same alignment and in part marginally closer to the watercourse, generally following the line of the applicant's landholding. The rationale for realigning the wall is to facilitate provision of service access and amenity space in this area. I note the submitted construction & demolition waste management plan and the construction & environmental management plan and the proposed mitigation contained therein. I am satisfied the provisions contained within these documents,

including in relation to stormwater and wastewater management, migrating dust & dirt pollution, harmful materials, and invasive alien species provide for the appropriate management of construction impacts in relation to the Abbey Stream, subject to the agreement of standard construction management conditions.

7.106. In this regard I have also considered the potential ecological impacts of the development on the Abbey Stream and European Sites as set out in Section 8.0 of this report. I am satisfied these matters can be addressed appropriately by standard conditions relating to construction management.

#### Ecology

7.107. Regarding ecology on-site, I have reviewed the submitted Ecology Note prepared by the applicant's ecologists. The report indicates the site was surveyed by ecologists with habitat, mammal, bird and bat surveys undertaken at the appropriate time of year and in accordance with standard methodologies. The report found the overgrowth on site had some potential local ecological importance for commuting and foraging bats and unprotected urban bird species. A section of the wall around the site was found to have some suitable commuting and foraging features for bats. Further, the adjacent Donore Castle protected structure was found to have some bat roost potential. The report overall found that the bat roost potential on the site was low and that no bat roosts were identified onsite. The report set out localised bat related mitigation measures in the form of construction management.

7.108. I also note the presence of invasive alien plant species identified in the report, and the construction environment management proposals for their controlled removal.

7.109. All structures on site with the exception of boundary walls were previously demolished pursuant to a separate planning permission. In recent years the site has become overgrown and largely comprises hardstanding. It is surrounded by longstanding urban development. The submitted ecology note and response to further information found the ecological status of the site to be low and recommended standard mitigation measures. I am satisfied that the proposal is acceptable in these regards subject to a condition relating to construction management.

#### Indicative masterplan

7.110. Regarding the submitted masterplan, the refusal reason refers to the masterplan for the Z10 lands and states *“The proposed development is located on Z10 masterplan lands and this issue would also impact on the proposed layout and operation of the masterplan, the masterplan lands being bisected by the Abbey stream”*. I have reviewed the submitted indicative masterplan. I note again correspondence from the adjacent landowner in this regard has been submitted, including written support for the masterplan, however that proposals for the development of the remainder of the Z10 lands are not being brought forward at this time.

7.111. I acknowledge the planning authority points in this regard regarding the relationship of the two landholdings either side of the watercourse, however for the same reasons as set out above in relation to the proposed development, I do not consider refusal of the subject development in this regard is warranted, or that the integrated and comprehensive development of these Z10 lands in line with the requirements of the development plan would be compromised by the proposed development.

## **8.0 Appropriate Assessment screening**

8.1. Having carried out Screening for Appropriate Assessment of the project in accordance with Section 177U of the Planning and Development Act 2000 (as amended), I conclude that the project individually or in combination with other plans or projects would not be likely to give rise to significant effects on the South Dublin Bay & River Tolka Estuary SPA, South Dublin Bay SAC, North Dublin SAC, North Bull Island SPA and North West Irish Sea SPA, or any other European site, in view of the Conservation Objectives of those sites, and Appropriate Assessment (and submission of a NIS) is not therefore required.

This determination is based on:

1. The scale of the development on fully serviced lands.
2. Flow distance to, and weak indirect connections to, and dilution factor associated with, the relevant waterbodies before connectivity the South Dublin Bay & River Tolka Estuary SPA and South Dublin Bay SAC with which there is hydrological connectivity being at distances of c.4.5km to the east, and that to the North Dublin SAC and North Bull Island SPA with which there is hydrological connectivity being at distances of c.7.3km to the east, and that to

the North West Irish Sea SPA with which there is hydrological connectivity being at distances of c.8.7km to the east

3. No ex-situ impacts on wintering birds.

8.2. Possible impacts identified would not be significant in terms of site-specific conservation objectives for the South Dublin Bay & River Tolka Estuary SPA, South Dublin Bay SAC, North Dublin SAC, North Bull Island SPA, and North West Irish Sea SPA and would not undermine the maintenance of favorable conservation condition or delay or undermine the achievement of restoring favorable conservation status for those qualifying interest features of unfavorable conservation status.

## 9.0 Recommendation

9.1. I recommend permission be **Granted**, subject to conditions, for the reasons and consideration below.

## 10.0 Reasons and Considerations

Having regard to the provisions of the Dublin City Development Plan 2022-2028, including the Z10 'Inner Suburban and Inner City Sustainable Mixed-Use' land use zoning objective for the area and the relevant policies and objectives of the development plan, and having regard to the scale, form, height, layout and design of the proposed mixed-use development, and to the pattern of development in the area including protected structures and recorded monuments, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities, character or heritage of the area or of property in the vicinity, and would overall promote the consolidation and development of this inner suburban site for mixed use development. In relation to the Abbey Stream which runs through and alongside the site, it is considered the development provides for a satisfactory relationship with the watercourse, and would not significantly limit future opportunities for river rehabilitation, enhancement of the riparian zone, flood risk management, or implementation of flood alleviation schemes, and therefore the proposal aligns with the objectives of Policy SI10 of the Dublin City Development Plan. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 11.0 Conditions

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| 1. | <p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the planning authority on the 29<sup>th</sup> day of September 2023, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 2. | <p>The proposed development shall be amended as follows:</p> <p>(a) Within the north-west building elevation (Drawing No. DON-HJL-XX-ZZ-DR-A-2000 Rev. P2 submitted to the planning authority on 29<sup>th</sup> September 2023) all balcony glazing and all communal space glass balustrades at 4<sup>th</sup> floor, and the bottom half of all apartment window glazing on the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> floors orientated toward Elford Terrace and No. 71 Donore Avenue shall be translucent;</p> <p>(b) Within the south-west building elevation (Drawing No. DON-HJL-XX-ZZ-DR-A-2001 Rev. P2 submitted to the planning authority on 29<sup>th</sup> September 2023), windows for apartments No's. 101, 113, 201, and 216 shall be angled southward away from No. 71 Donore Avenue, and all balcony glazing in this elevation shall be finished in translucent glazing;</p> <p>Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interests of residential amenity.</p> |
| 3. | <p>Details of the materials, colours and textures of all the external finishes to the proposed buildings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The brick colour to be used shall be the same or similar as that used in the adjoining residential area / existing development along Marlborough Road.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |

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|    | Reason: In the interest of visual amenity and to ensure an appropriate high standard of development.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 4. | <p>The 2 no. open spaces located above ground level (as shown on Drawing No. 7744-L-2000 Rev. 00 'Landscape Proposal') shall be available and accessible to all residents of the development.</p> <p>Reason: In the interests of residential amenity.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 5. | <p>The developer shall comply with the following requirements:</p> <p>(a) Prior to the commencement of the development, detail design of the controlled pedestrian crossing shall be submitted for the written agreement of the planning authority;</p> <p>(b) Prior to the commencement of the development, a drawing detailing areas to be taken in charge and details of the materials proposed in public areas shall be submitted for the written agreement of the planning authority;</p> <p>(c) Prior to the commencement of development, the developer shall submit for the written agreement of the planning authority revised swept path analyses for the development which clearly demonstrate sufficient space for vehicles to manoeuvre safely and efficiently within the site when all parking spaces are occupied. Car parking spaces shall be removed if sufficient manoeuvrability is not clearly demonstrated.</p> <p>All costs incurred by Dublin City Council, including any repairs to the public road and services necessary as a result of the development, shall be at the expense of the developer.</p> <p>Reason: In the interest of road safety, orderly development and sustainable transportation.</p> |
| 6. | <p>The developer shall comply with the following requirements of the planning authority:</p> <p>(a) The attenuation and disposal of surface water shall comply with the requirements of the planning authority for such works and services, including in relation to separation of foul and surface water systems, written permission for connection to the public surface water network, petrol interception, and codes of</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |

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|    | <p>practice. Prior to the commencement of development, the developer shall submit details for the disposal of surface water within the site for the written agreement of the planning authority.</p> <p>(b) According to DCC's drainage records a culverted section of the River Poddle is crossing the site in the proximity to the proposed development. The exact location and levels of the Abbey Stream culvert intersecting the site must be accurately determined on site. The applicant shall demonstrate that no additional loading will be placed on the culvert and that adequate separation distances from the culvert to the proposed building will be provided to facilitate future access / maintenance of the culvert. The applicant shall also provide a wayleave / easement agreement to DCC for the culvert crossing this site. Prior to the commencement of development, the developer shall submit details in these regards for the written agreement of the planning authority.</p> <p>Reason: In the interest of public health.</p> |
| 7. | <p>Prior to commencement of development, the developer shall enter into connection agreement(s) with Uisce Eireann (Irish Water) to provide for a service connection(s) to the public water supply and/or wastewater collection network.</p> <p>Reason: In the interests of public health and to ensure adequate water / wastewater facilities.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 8. | <p>The following shall be complied with:</p> <p>(a) The noise mitigation measures set out in Section 4.4 'Noise Mitigation by Design' of the Inward Noise &amp; Air Quality Assessment report received by the planning authority on the 16<sup>th</sup> March 2023 shall be complied with;</p> <p>(b) During the operational phase of the proposed development, the noise level shall not exceed (a) 55 dB(A) rated sound level between the hours of 0700 to 2300, and (b) 45 dB(A) 15min and 60 dB LAfmax, 15min at all other times, (corrected for a tonal or impulsive component) as measured at the nearest dwelling. Procedures for the purpose of determining compliance with this limit shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: To protect the residential amenities of property in the vicinity.</p>                                                                                                                                                        |

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| 9.  | <p>All mitigation measures in relation to archaeology and cultural heritage as set out in Section 5 of the Archaeological Assessment report prepared by IAC Archaeology and submitted with the planning application on 16<sup>th</sup> March 2023 shall be implemented in full. The planning authority and the National Monuments Service shall be furnished with a final archaeological report describing the results of any archaeological investigative work/ excavation required, following the completion of all archaeological work on site and any necessary post-excavation specialist analysis. All resulting and associated archaeological costs shall be borne by the developer.</p> <p>Reason: To ensure the continued preservation by record of places, caves, sites, features or other objects of archaeological interest</p> |
| 10. | <p>Proposals for an estate/street name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) 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).</p> <p>Reason: In the interest of urban legibility [and to ensure the use of locally appropriate placenames for new residential areas.</p>                   |
| 11. | <p>The mitigation measures set out in Section 6 of the 'Ecology Note' (prepared by Enviroguide Consulting) as submitted with the application to the planning authority on the 16th day of March 2023 as part of the application shall be implemented in full.</p> <p>Reason: To mitigate the loss of biodiversity on the site.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 12. | <p>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 details of intended construction practice for the development, including</p>                                                                                                                                                                                                                                                                                                                                                                                                                               |

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|     | <p>hours of working, noise, vibration, air quality and dust management measures and off-site disposal of construction/demolition waste, as well as:</p> <p>(a) Details of on-site car parking facilities for site workers during the course of construction;</p> <p>(b) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;</p> <p>(c) Measures to obviate queuing of construction traffic on the adjoining road network;</p> <p>(d) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;</p> <p>(e) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;</p> <p>(f) Provision of parking for existing properties at during the construction period;</p> <p>(g) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;</p> <p>(h) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;</p> <p>(i) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.</p> <p>Reason: In the interest of amenities, public health and safety and environmental protection.</p> |
| 13. | <p>The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |

|     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
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| 14. | <p>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 on the land in accordance with the requirements of section 94(4) and section 96(2) and 96(3) (b), (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate has been granted under section 97 of the Act, as amended. Where such an agreement cannot be reached between the parties, the matter in dispute (other than a matter to which section 96(7) applies) shall be referred by the planning authority or any other prospective party to the agreement, to An Bord Pleanála for determination.</p> <p>Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan for the area.</p> |
| 15. | <p>Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or such other security as may be acceptable to the planning authority, to secure the reinstatement of services and infrastructure currently in the charge of Dublin City Council, including roads, footpaths, watermains, drains, and other services, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory reinstatement of the public road. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.</p> <p>Reason: In the interest of traffic safety and the proper planning and sustainable development of the area.</p>                                                                                               |
| 16. | <p>The developer shall pay to the planning authority a financial contribution in lieu of public open space in respect of public open space benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate</p>                                                                                                                                                                                                                                                                                                                                                                                                |

|     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|-----|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|     | <p>and shall be subject to any applicable indexation provisions of the Scheme at the time of payment.</p> <p>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.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 17. | <p>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 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.</p> <p>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.</p> |

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

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D. Aspell  
Inspector  
31<sup>st</sup> October 2024

## APPENDIX 1

### Form 1

#### EIA Pre-Screening [EIAR not submitted]

|                                                                                                                                                                                                                                                       |   |                                                                                                                                                      |                                             |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------|
| <b>An Bord Pleanála Case Reference</b>                                                                                                                                                                                                                |   | ABP-318518-23                                                                                                                                        |                                             |
| <b>Proposed Development Summary</b>                                                                                                                                                                                                                   |   | Construction of part two to part six storey mixed use development comprising of 2 commercial units and 68 apartments with all associated site works. |                                             |
| <b>Development Address</b>                                                                                                                                                                                                                            |   | 69D Donore Avenue, Dublin 8.                                                                                                                         |                                             |
| <b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b><br>(that is involving construction works, demolition, or interventions in the natural surroundings)                                        |   | <b>Yes</b>                                                                                                                                           | Yes                                         |
|                                                                                                                                                                                                                                                       |   | <b>No</b>                                                                                                                                            | No further action required                  |
| <b>2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?</b>   |   |                                                                                                                                                      |                                             |
| Yes                                                                                                                                                                                                                                                   |   | Class.....                                                                                                                                           | EIA Mandatory<br>EIAR required              |
| No                                                                                                                                                                                                                                                    | X |                                                                                                                                                      | Proceed to Q.3                              |
| <b>3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?</b> |   |                                                                                                                                                      |                                             |
|                                                                                                                                                                                                                                                       |   | <b>Threshold</b>                                                                                                                                     | <b>Comment (if relevant)</b>                |
| No                                                                                                                                                                                                                                                    |   | N/A                                                                                                                                                  | No EIAR or Preliminary Examination required |
| Yes                                                                                                                                                                                                                                                   | X | Class 10 Infrastructure                                                                                                                              | Proceed to Q.4                              |
| <b>4. Has Schedule 7A information been submitted?</b>                                                                                                                                                                                                 |   |                                                                                                                                                      |                                             |
| No                                                                                                                                                                                                                                                    |   | Preliminary Examination required                                                                                                                     |                                             |
| Yes                                                                                                                                                                                                                                                   | X | Screening Determination required                                                                                                                     |                                             |

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

Date: \_\_ 10/10/2024\_\_

## Form 3

### EIA Screening Determination

| A. CASE DETAILS                                                                                                                                                                                   |                                                                                                                                                      |                                                                                 |                                                                                               |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------|
| An Bord Pleanála Case Reference                                                                                                                                                                   | ABP-319007-24                                                                                                                                        |                                                                                 |                                                                                               |
| Development Summary                                                                                                                                                                               | Construction of part two to part six storey mixed use development comprising of 2 commercial units and 68 apartments with all associated site works. |                                                                                 |                                                                                               |
|                                                                                                                                                                                                   | Yes / No / N/A                                                                                                                                       | Comment (if relevant)                                                           |                                                                                               |
| 1. Was a Screening Determination carried out by the PA?                                                                                                                                           | Yes                                                                                                                                                  | -                                                                               |                                                                                               |
| 2. Has Schedule 7A information been submitted?                                                                                                                                                    | Yes                                                                                                                                                  | -                                                                               |                                                                                               |
| 3. Has an AA screening report or NIS been submitted?                                                                                                                                              | Yes                                                                                                                                                  | AA Screening only.                                                              |                                                                                               |
| 4. Is a IED/ IPC or Waste Licence (or review of licence) required from the EPA? If YES has the EPA commented on the need for an EIAR?                                                             | No                                                                                                                                                   | -                                                                               |                                                                                               |
| 5. Have any other relevant assessments of the effects on the environment which have a significant bearing on the project been carried out pursuant to other relevant Directives – for example SEA | No.                                                                                                                                                  | I note the SEA of the Dublin City Development Plan.                             |                                                                                               |
| B. EXAMINATION                                                                                                                                                                                    | Yes/ No/ Uncertain                                                                                                                                   | Briefly describe the nature and extent and Mitigation Measures (where relevant) | Is this likely to result in significant effects on the environment?<br><br>Yes/ No/ Uncertain |
| This screening examination should be read with, and in light of, the rest of the Inspector's Report attached herewith                                                                             |                                                                                                                                                      |                                                                                 |                                                                                               |
| 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                                                                                                                                                   | Project comprises an apartment block with two small commercial units.           | Project not likely to result in significant effects on the environment in this regard.        |

|                                                                                                                                                                                                   |    |                                                                                                                                                                                                                               |                                                                                        |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------|
|                                                                                                                                                                                                   |    | There are dwellings to the north and west and warehousing to the south and east.                                                                                                                                              |                                                                                        |
| 1.2 Will construction, operation, decommissioning or demolition works cause physical changes to the locality (topography, land use, waterbodies)?                                                 | No | Site is Brownfield in an urban area. Site mainly comprises hardstanding, and was formerly the site of a factory which is now demolished. No works to Abbey Stream culvert are proposed.                                       | Project not likely to result in significant effects on the environment in this regard. |
| 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? | No | Project is located on an urban site and will utilise the site efficiently, however otherwise non-renewable resources or those in short supply will not be used.                                                               | Project not likely to result in significant effects on the environment in this regard. |
| 1.4 Will the project involve the use, storage, transport, handling or production of substance which would be harmful to human health or the environment?                                          | No | Project comprises an apartment block with two commercial units. No such substances are recorded on the site. The former factory on site was previously demolished pursuant to a separate planning permission.                 | Project not likely to result in significant effects on the environment in this regard. |
| 1.5 Will the project produce solid waste, release pollutants or any hazardous / toxic / noxious substances?                                                                                       | No | Residential and commercial waste only will be stored temporary on site. The proposed café and take away use would produce odours only. No solid waste, pollutants or hazardous / toxic / noxious substances will be produced. | Project not likely to result in significant effects on the environment in this regard. |

|                                                                                                                                                                                  |    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                        |
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| 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 contamination on site has been identified. The warehousing previously on the site have been removed. Hardstanding only remains. No basements are proposed. A construction and environment management plan is submitted. Mitigation in the form of a construction management plan is conditioned. Assessment in relation to impact on the adjacent Abbey Stream watercourse have been undertaken and no works to the watercourse or culvert are proposed. Construction and operation of the proposed apartment and commercial units will not give rise to contamination or release of pollutants onto the ground, waters or sea. | Project not likely to result in significant effects on the environment in this regard. |
| 1.7 Will the project cause noise and vibration or release of light, heat, energy or electromagnetic radiation?                                                                   | No | Some noise arising from the proposed café and takeaway uses air extraction may arise however this would be localised and minor in nature.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Project not likely to result in significant effects on the environment in this regard. |
| 1.8 Will there be any risks to human health, for example due to water contamination or air pollution?                                                                            | No | The scale and nature of the proposed apartments and commercial units will not give rise to significant risks to human health. The                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Project not likely to result in significant effects on the environment in this regard. |

|                                                                                                                    |     |                                                                                                                                                                                                                                                                     |                                                                                        |
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|                                                                                                                    |     | proposed café and take away uses will give rise to minor odour only. The submitted construction and environment management plan identifies not significant issues in this regard. A construction management plan is required to be submitted prior to commencement. |                                                                                        |
| 1.9 Will there be any risk of major accidents that could affect human health or the environment?                   | No. | The nature and scale of the apartment and commercial unit block incorporates no components or substances which would present any risk of major accidents.                                                                                                           | Project not likely to result in significant effects on the environment in this regard. |
| 1.10 Will the project affect the social environment (population, employment)                                       | No. | The project will add dwellings in a largely residential area, as well as two commercial units which will provide additional services and facilities. The submitted social and community audit identified no significant issues in this regard.                      | Project not likely to result in significant effects on the environment in this regard. |
| 1.11 Is the project part of a wider large scale change that could result in cumulative effects on the environment? | No. | The surrounding urban area is predominantly long established inner suburban development. The site forms part of a larger Z10 area. The remainder of those lands are not being brought forward for development at this time. Given the size of                       | Project not likely to result in significant effects on the environment in this regard. |

|                                                                                                                                                                                                                                                                                                                                                                                                                                                     |     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                        |
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|                                                                                                                                                                                                                                                                                                                                                                                                                                                     |     | the site and larger Z10 landholding cumulative effects on the environment are not considered likely.                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                        |
| <b>2. Location of proposed development</b>                                                                                                                                                                                                                                                                                                                                                                                                          |     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                        |
| 2.1 Is the proposed development located on, in, adjoining or have the potential to impact on any of the following:<br><br>European site (SAC/ SPA/ pSAC/ pSPA)<br><br>NHA/ pNHA<br><br>Designated Nature Reserve<br><br>Designated refuge for flora or fauna<br><br>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. | No site specific natural or environmental policy designation relates to the site. The closest European Sites are South Dublin Bay & River Tolka Estuary SPA and South Dublin Bay SAC which are c.4.5km to the east, and North Dublin SAC and North Bull Island SPA which are c.7.3km to the east.                                                                                                                                                                                                     | Project not likely to result in significant effects on the environment in this regard. |
| 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?                                                                                                                                                                                                                   | No  | All structures on site were demolished previously pursuant to a separate planning permission. The site is overgrown and largely comprises hardstanding and surrounded by urban development. The submitted ecology note and response to further information found the ecological status of the site to be low. The reports found the growth on site had some local ecological importance for commuting and foraging bats and unprotected urban bird species. A section of the wall around the site was | Project not likely to result in significant effects on the environment in this regard. |

|                                                                                                                                                                                                                                 |    |                                                                                                                                                                                                                                                                                                                                                                        |                                                                                               |
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|                                                                                                                                                                                                                                 |    | <p>found to have some suitable commuting and foraging features for bats. The adjacent Donore Castle protected structure was found to have some bat roost potential. However the bat roost potential on the site was found to be low, and no bat roosts on site were identified. Localised mitigation measures in the form of construction management are proposed.</p> |                                                                                               |
| <p>2.3 Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?</p>                                                                                                  | No | <p>The site comprises a former factor in an urban area. Neighbouring protected structures, or their character and setting, are not likely to be affected. The site is within the notification zones for 2 no. recorded monuments. No works to these monuments are proposed, however archaeological mitigation is proposed in the form of construction management.</p>  | <p>Project not likely to result in significant effects on the environment in this regard.</p> |
| <p>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?</p> | No | <p>Project site is a former factory site and is within a settled urban area.</p>                                                                                                                                                                                                                                                                                       | <p>Project not likely to result in significant effects on the environment in this regard.</p> |

|                                                                                                                                                                                                                     |     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                        |
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| 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. | No works to the Abbey Stream culvert within or adjacent the site are proposed. The proposed project will drain to mains drainage networks and through proposed sustainable urban drainage systems within the site and not to the Abbey Stream. Flood risk for the site including in terms of pluvial flooding is considered to be low risk. Conditions relating to identifying the exact location of the Abbey Stream culvert are stated as being required by the planning authority. | Project not likely to result in significant effects on the environment in this regard. |
| 2.6 Is the location susceptible to subsidence, landslides or erosion?                                                                                                                                               | No  | Site is a former factory, largely in hardstanding, and within a settled urban area. The Abbey Stream culvert within and adjoining the site is constructed largely from concrete and brick.                                                                                                                                                                                                                                                                                            | Project not likely to result in significant effects on the environment in this regard. |
| 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  | There are no key transport routes on or around the site.                                                                                                                                                                                                                                                                                                                                                                                                                              | Project not likely to result in significant effects on the environment in this regard. |
| 2.8 Are there existing sensitive land uses or community facilities (such as hospitals, schools etc) which could be affected by the project?                                                                         | No  | St. Catherine's National School is c.50m to the north. No significant impacts from the project in this regard are considered                                                                                                                                                                                                                                                                                                                                                          | Project not likely to result in significant effects on the environment in this regard. |

|                                                                                                                                                                                     |    |                                                                                                                                                                                                                                                                                           |                                                                                        |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------|
|                                                                                                                                                                                     |    | likely due to its nature and scale.                                                                                                                                                                                                                                                       |                                                                                        |
| 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 | The scale, nature and extent of the project, the settled urban location, and lack of neighbouring projects identified make cumulative effects unlikely. The remainder of the Z10 lands are not being brought forward for development at this time due to existing contractual agreements. | Project not likely to result in significant effects on the environment in this regard. |
| 3.2 Transboundary Effects: Is the project likely to lead to transboundary effects?                                                                                                  | No | The scale, nature and location of the site within Dublin City make transboundary effects unlikely.                                                                                                                                                                                        | Project not likely to result in significant effects on the environment in this regard. |
| 3.3 Are there any other relevant considerations?                                                                                                                                    | No | No.                                                                                                                                                                                                                                                                                       | Project not likely to result in significant effects on the environment in this regard. |
| C. CONCLUSION                                                                                                                                                                       |    |                                                                                                                                                                                                                                                                                           |                                                                                        |
| No real likelihood of significant effects on the environment.                                                                                                                       | X  | EIAR Not Required                                                                                                                                                                                                                                                                         |                                                                                        |
| Real likelihood of significant effects on the environment.                                                                                                                          | -  | EIAR Required                                                                                                                                                                                                                                                                             |                                                                                        |
| D. MAIN REASONS AND CONSIDERATIONS                                                                                                                                                  |    |                                                                                                                                                                                                                                                                                           |                                                                                        |
| Having regard to: -                                                                                                                                                                 |    |                                                                                                                                                                                                                                                                                           |                                                                                        |
| 1. the criteria set out in Schedule 7, in particular                                                                                                                                |    |                                                                                                                                                                                                                                                                                           |                                                                                        |
| (a) the limited nature and scale of the proposed housing development, in an established residential area served by public infrastructure                                            |    |                                                                                                                                                                                                                                                                                           |                                                                                        |
| (b) the absence of any significant environmental sensitivity in the vicinity, and the location of the proposed development outside of the designated archaeological protection zone |    |                                                                                                                                                                                                                                                                                           |                                                                                        |

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

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

3. the features and measures proposed by applicant envisaged to avoid or prevent what might otherwise have been significant effects on the environment, and in particular the proposal to preserve in situ known archaeological features

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

Inspector \_\_\_\_\_

Date \_10/10/2024\_\_\_\_\_

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

Date \_\_\_\_\_

## **APPENDIX 2 - Appropriate Assessment Screening**

### AA Screening Determination

- 11.4. I have considered the proposed development of 68 no. apartments, 2 no. commercial units and all associated works including open space in light of the requirements of Sections 177S and 177U of the Planning and Development Act 2000 as amended.
- 11.5. A screening report for Appropriate Assessment prepared by Enviroguide Consulting was submitted with the planning application. The screening report provides a description of the project, identifies and provides a brief description of the European Sites within a 15km zone of influence of the development, and an assessment of potential impacts arising from the development. The submitted screening report concluded that the possibility of significant effects on any European sites, whether arising from the project itself or in combination with other plans and projects can be excluded from having the potential to significantly affect any European site in light of their conservation objectives, and therefore, a Stage 2 Appropriate Assessment is deemed not to be required. I am satisfied the submitted information allows for a complete examination and identification of all the aspects of the project that could have an effect, either alone, or in combination with other plans and projects on European sites.
- 11.6. The planning authority screened the project for appropriate assessment and found significant effects were not likely to arise either alone or in combination with other plans and projects that would result in significant effects to any Natura 2000 area. The planning authority concluded a full appropriate assessment was not required.
- 11.7. The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development is likely to have significant effects on a European site(s). The proposed development is examined in relation to any possible interaction with European sites designated Special Conservation Area (SAC) and Special Protection Area (SPA) to assess whether it may give rise to significant effects on any European Site in view of the conservation objectives of those sites.

- 11.8. A description of the proposed development is presented in Section 2.0 of my report. In summary, the proposed development site is urban in nature. The site is brownfield and adjoins existing residential development to the west and commercial development to the east within the inner suburbs of Dublin City. The development will comprise construction of 68 no. apartments, 2 no. commercial units, open space, landscaping, and associated site works on a site of 0.29 ha. Surface water will be dealt with entirely within the confines of the site prior to discharging to the public network, in a manner consistent with sustainable urban drainage (SUDS) principles. The proposed development will be connected to the local water supply, surface water and foul sewer network, subject to connection agreements with *Uisce Eireann*. The proposed construction access route during the construction phase will be directly from Donore Avenue. No flora or fauna species for which Natura 2000 sites have been designated were recorded on the application site.
- 11.9. A culverted watercourse referred to as the 'Abbey Stream' runs under and adjacent the site. No works to the culvert or watercourse are proposed as part of the development. The application boundary is adjacent a section of the culvert which is open to the air. The watercourse forms part of the Poddle River network. The Poddle enters the River Liffey in Dublin City Centre approximately 1.8km to the north-east. The River Liffey in turn runs to Dublin Bay.
- 11.10. The application site was surveyed by ecologists with habitat, mammal and bat surveys undertaken at the appropriate time of year and in accordance with standard methodologies. Invasive plant species (Japanese Knotweed (*Fallopia japonica*) and Buddleia (*Buddleja davidii*) were recorded on the site.

#### European Sites

- 11.11. The Appropriate Assessment Screening Report for the proposed development submitted with the application provides a description of the European sites within 15km (as the crow flies) of the subject site.
- 11.12. The proposed development is not located within or immediately adjacent any designated European Site. Where a possible connection between the development and a European Site has been identified, these sites are examined in more detail.
- 11.13. A potential pathway to 5 no. European Site is identified via the Abbey Stream culvert connecting to the Poddle River which discharges to the River Liffey and in

turn discharges to Dublin Bay. The five European Sites potentially within a zone of influence of the proposed development site (see Table 1 below) are identified as follows:

- South Dublin Bay & River Tolka Estuary SPA is located c.4.5km to the east
- South Dublin Bay SAC is located c.4.5km to the east
- North Bull Island SPA is c.7.3km to the east
- North Dublin SAC is located c.7.3km to the east
- North Wet Irish Sea SPA is located c.8.7km to the east

A summary of these European Sites is presented in the table below. No other viable pathways to European Sites are identified

- 11.14. Given the site is within a developed urban area, given the intervening distances, and given the absence of direct hydrological connection, I concur with the applicant that no other viable receptor pathways are identified between the appeal site and other Sites. Other European Sites are therefore screened out at preliminary stage.

| European Site                                       | List of Qualifying Interests and Special Conservation Interests                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | Distance | Connections                                                                                                                                                                                                                                                                                                                  |
|-----------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| South Dublin Bay & River Tolka Estuary SPA (004024) | A999 Wetlands and waterbirds<br>A046 Light-Bellied Brent Goose ( <i>Branta bernicla hrota</i> )<br>A130 Oystercatcher ( <i>Haematopus ostralegus</i> )<br>A137 Ringed Plover ( <i>Charadrius hiaticula</i> )<br>A141 Grey Plover ( <i>Pluvialis squatarola</i> )<br>A143 Knot ( <i>Calidris canutus</i> )<br>A144 Sanderling ( <i>Calidris alba</i> )<br>A149 Dunlin ( <i>Calidris alpina alpina</i> )<br>A157 Bar-tailed Godwit ( <i>Limosa lapponica</i> )<br>A162 Redshank ( <i>Tringa tetanus</i> )<br>A179 Black-headed Gull ( <i>Chroicocephalus ridibundus</i> ) | c.4.5km  | Yes.<br><br>Indirect hydrological connection via foul and surface water drainage networks, and the Abbey Stream, which flows into the River Poddle, a tributary of River Liffey, which in turn flows into Dublin Bay. Foul and surface runoff could potentially impact the qualifying special conservation interest species. |

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|                                   | A192 Roseate Tern ( <i>Sterna dougallii</i> )<br>A193 Common Tern ( <i>Sterna hirundo</i> )<br>A194 Arctic Tern ( <i>Sterna paradisaea</i> )                                                                                                                                                                                                                                                                                |         |                                                                                                                                                                                                                                                                                                                                                                                           |
| South Dublin Bay SAC<br>(000210)  | 1140 Mudflats and sandflats not covered by seawater at low tide<br>1310 Salicornia and other annuals colonising mud and sand<br>1210 Annual vegetation of drift lines<br>2110 Embryonic shifting dunes                                                                                                                                                                                                                      | c.4.5km | Yes.<br><br>Indirect hydrological connection via foul and surface water drainage networks, and the Abbey Stream, which flows into the River Poddle, a tributary of River Liffey, which in turn flows into Dublin Bay. Foul and surface runoff could potentially impact the qualifying special interest habitats, including by spread of invasive alien plant species during construction. |
| North Bull Island SPA<br>(004006) | A999 Wetlands and waterbirds<br>A046 Light-Bellied Brent Goose ( <i>Branta bernicla hrota</i> )<br>A048 Shelduck ( <i>Tadorna tadorna</i> )<br>A052 Teal ( <i>Anas crecca</i> )<br>A054 Pintail <i>Anas acuta</i><br>A056 Shoveler ( <i>Anas clypeata</i> )<br>A130 Oystercatcher ( <i>Haematopus ostralegus</i> )<br>A140 Golden Plover ( <i>Pluvialis apricaria</i> )<br>A141 Grey Plover ( <i>Pluvialis squatarola</i> ) | c.7.3km | Yes.<br><br>Indirect hydrological connection via foul and surface water drainage networks, and the Abbey Stream, which flows into the River Poddle, a tributary of River Liffey, which in turn flows into Dublin Bay. Foul and surface runoff could                                                                                                                                       |

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|                                   | A143 Knot ( <i>Calidris canutus</i> )<br>A144 Sanderling ( <i>Calidris alba</i> )<br>A149 Dunlin ( <i>Calidris alpina alpina</i> )<br>A156 Black-tailed Godwit ( <i>Limosa limosa</i> )<br>A157 Bar-tailed Godwit ( <i>Limosa lapponica</i> )<br>A160 Curlew ( <i>Numenius Arquata</i> )<br>A162 Redshank ( <i>Tringa tetanus</i> )<br>A169 Turnstone ( <i>Arenaria interpres</i> )<br>A179 Black-headed Gull ( <i>Chroicocephalus ridibundus</i> )                                                                                                                                                                                            |         | potentially impact the qualifying special conservation interest species.                                                                                                                                                                                                                                                                                                                  |
| North Dublin SAC (000206)         | 1140 Mudflats and sandflats not covered by seawater at low tide<br>1210 Annual vegetation of drift lines<br>1310 Salicornia and other annuals colonising mud and sand<br>1330 Atlantic salt meadows ( <i>Glaucopuccinellietalia maritimae</i> )<br>1395 Petalwort ( <i>Petalophyllum ralfsii</i> )<br>1410 Mediterranean salt meadows ( <i>Juncetalia maritimi</i> )<br>2110 Embryonic shifting dunes<br>2120 Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes)<br>2130 Fixed coastal dunes with herbaceous vegetation (grey dunes)<br>2190 Humid dune slacks<br>1395 Petalwort ( <i>Petalophyllum ralfsii</i> ) | c.7.3km | Yes.<br><br>Indirect hydrological connection via foul and surface water drainage networks, and the Abbey Stream, which flows into the River Poddle, a tributary of River Liffey, which in turn flows into Dublin Bay. Foul and surface runoff could potentially impact the qualifying special interest habitats, including by spread of invasive alien plant species during construction. |
| North West Irish Sea SPA (004236) | A001 Red-throated Diver ( <i>Gavia stellata</i> )<br>A003 Great Northern Diver ( <i>Gavia immer</i> )<br>A009 Fulmar ( <i>Fulmarus glacialis</i> )<br>A013 Manx Shearwater ( <i>Puffinus puffinus</i> )                                                                                                                                                                                                                                                                                                                                                                                                                                        | c.8.7km | Yes.<br><br>Indirect hydrological connection via foul and surface water drainage networks, and the Abbey                                                                                                                                                                                                                                                                                  |

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| A017 Cormorant ( <i>Phalacrocorax carbo</i> )<br>A018 Shag ( <i>Phalacrocorax aristotelis</i> )<br>A065 Common Scoter ( <i>Melanitta nigra</i> )<br>A179 Black-headed Gull ( <i>Chroicocephalus ridibundus</i> )<br>A182 Common Gull ( <i>Larus canus</i> )<br>A183 Lesser Black-backed Gull ( <i>Larus fuscus</i> )<br>A184 Herring Gull ( <i>Larus argentatus</i> )<br>A187 Great Black-backed Gull ( <i>Larus marinus</i> )<br>A188 Kittiwake ( <i>Rissa tridactyla</i> )<br>A192 Roseate Tern ( <i>Sterna dougallii</i> )<br>A193 Common Tern ( <i>Sterna hirundo</i> )<br>A194 Arctic Tern ( <i>Sterna paradisaea</i> )<br>A195 Little Tern ( <i>Sterna albifrons</i> )<br>A199 Guillemot ( <i>Uria aalge</i> )<br>A200 Razorbill ( <i>Alca torda</i> )<br>A204 Puffin ( <i>Fratercula arctica</i> )<br>A862 Little Gull ( <i>Hydrocoloeus minutus</i> ) | Stream, which flows into the River Poddle, a tributary of River Liffey, which in turn flows into Dublin Bay. Foul and surface runoff could potentially impact the qualifying special interest habitats, including by spread of invasive alien plant species during construction. |
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Likely impacts of the project (alone or in combination with other plans and projects)

- 11.103. The application site is not located fully or partly within or adjacent any European Site, therefore there will be no direct impacts and no risk of habitat loss, fragmentation, or any other direct impact. The site does not contain any habitats of related conservation value and does not contain any habitat that supports any European Sites.
- 11.104. The site is urban in nature and located within the inner suburbs of Dublin City. The size and nature of the proposed development is typical for the urban area of the City, including at both construction and operational phases. Due to the enclosed, urban nature of the site, the nature and scale of the development relative to the distance between the site and the identified European Sites at Dublin Bay, I

consider the project would not generate impacts beyond the immediate area of the development site, and would have a very limited potential zone of influence on ecological receptors, including European Sites.

- 11.105. With regard to indirect impacts, potential impacts on the identified European Sites would be restricted to the potential for discharge of surface water from the site, which could in principle occur during the construction and operational phases and in periods of very high rainfall or in respect of a flood event.
- 11.106. During the site clearance and construction phase of the development, it is possible that surface water runoff from the construction site could carry construction related pollutants via surface water runoff to the Abbey Stream, including removal and construction of the boundary wall adjacent the Abbey Stream, which would provide a potential indirect hydrological pathway to the identified European Sites. However, there are a number of factors that would prevent likely significant effects on these European Sites. Any runoff from the construction site would have to bypass the existing or proposed concrete block boundary wall, and then flow over c.2m of land to reach the Abbey Stream. If the boundary wall had been removed any runoff from the construction site reaching the Abbey Stream would dilute, attenuate or settle given the nearest flow distance to the identified European Sites with which there is indirect hydrological connectivity, by way of the Rivers Poddle and Liffey, at distances of over 3.4 km to the nearest identified European Site, it is reasonable to consider that any runoff reaching the stream would then be diluted by distance of intervening watercourse prior to reaching Dublin Bay, and subsequently by the considerable volume of flowing water in the Liffey estuary.
- 11.107. In addition, the submitted Construction & Environment Management Plan as part of the planning application includes standard pollution control measures which would be put in place, including in relation to Japanese Knotweed and Buddleia. These measures are standard practices for such urban sites and would be required for a development on any urban site in order to protect local receiving waters, irrespective of the identified potential hydrological connection to Natura 2000 sites.

- 11.108. I do not consider there is any other feasible impact mechanisms in relation to construction including noise or dust due to the distances involved, making it highly unlikely that the proposed development could generate impacts of a magnitude that could affect European Sites in these regards.
- 11.109. During the operational phase, the proposal would not generate significant demands on the existing public foul or surface water drainage infrastructure. The project proposes that all surface water run off would be attenuated within the appeal site, after which non-infiltrated waters would flow to the public network water located in Donore Avenue. The surface water pathway could create the potential for an interrupted and distant hydrological connection between the proposed development, however given the SUDS attenuation measures proposed as required by the development plan, which would have a positive impact on drainage from the subject site, and the distances involved to the identified European Site, any runoff reaching the Abbey Stream would be diluted by a minimum of approximately 3.4 km of intervening watercourse prior to reaching the nearest identified European Site.
- 11.110. SUDS measures are standard measures which are included in all projects and are not included to reduce or avoid any effect on a designated site. The inclusion of SUDS is considered to be in accordance with the Greater Dublin Strategic Drainage Study (GDSDS) and the City Development Plan and are not mitigation measures in the context of Appropriate Assessment.
- 11.111. There are no basement excavation works proposed and no significant effects on groundwater are expected. In this regard I note that no works to the underground culvert sections of the Abbey Stream through the site is proposed.

Likely significant effects on the European site in view of the conservation objectives

- 11.112. The conservation objectives for the South Dublin Bay & River Tolka Estuary SPA, South Dublin Bay SAC, North Dublin SAC, North Bull Island SPA or North West Irish Sea SPA are to maintain the favourable conservation conditions for each of the species identified, and the favourable conservation conditions of the identified intertidal habitats and birds related to Liffey estuary and Dublin Bay. The qualifying interests of the identified SACs and SPAs (estuarine / intertidal habitats

and birds) are considered to have relatively low sensitivity to suspended sediments or related pollutants, and their conservation objectives would not be compromised and there would be no changes in ecological functions due to construction related emissions or disturbance. I note the Grey Plover is proposed for removal from the list of Special Conservation Interests for South Dublin Bay and River Tolka Estuary SPA, and as a result, a site-specific conservation objective has not been set for this species.

- 11.113. The Ecological information presented by the applicant and my observations on-site show the current land use is not suitable for any regular use by special conservation interest wintering birds of the identified European Sites. No wintering birds were recorded at the site over a number of site visits and the unsuitability of the site verified by an independent ornithologist. There will be no direct or ex-situ effects on relevant mobile species, including ex-situ foraging, roosting or breeding habitat during construction or operation of the proposed development due to the location of the development site and the absence of suitable habitat.
- 11.114. Regarding the construction phase of development, invasive plant species (Japanese Knotweed (*Fallopia japonica*) and Buddleia (*Buddleja davidii*) are recorded on the site. The Construction & Environment Management plan submitted with the planning application sets out standard mitigation measures for the appropriate management and removal of these invasive plant species during construction. These measures are considered to be typical measures incorporated as appropriate into such urban developments. The management of invasive alien species is also required under a separate regulatory regime.
- 11.115. I have considered operational impacts and potential of pollutants entering the surface water network in this regard. Having regard to the nature and extent of the proposed development (construction of 68 no. apartments, 2 no. commercial units, open space, landscaping and associated works), the flow distance to the nearest European site with which there is hydrological connectivity at a distance of over 3.4km to the nearest identified site, and the dilution factor associated with the relevant waterbodies before connectivity with the distant European site, it is not likely that that there would be any significant effects on habitats at the South Dublin Bay & River Tolka Estuary SPA, South Dublin Bay SAC, North Dublin SAC, North Bull Island SPA or North West Irish Sea SPA. It is reasonable to determine

that any potential pollutants from this project site would dilute, attenuate or settle out before any connectivity with these distant European sites. I consider that there would be no likely adverse significant effects for European sites arising from the proposed development.

- 11.116. Having regard to the foregoing, I conclude that the construction or operation of the proposed development will not result in impacts that could affect or undermine the conservation objectives of any of the qualifying interests or special conservation interests of European sites within or associated with the South Dublin Bay & River Tolka Estuary SPA, South Dublin Bay SAC, North Dublin SAC, North Bull Island SPA or North West Irish Sea SPA.

In combination effects

- 11.117. In combination effects are examined within the applicant Appropriate Assessment Screening report. The report considers there is no potential for the proposed development to act in combination with other developments in the vicinity that may cause likely significant effects on any of the above European Sites.
- 11.118. The development is not associated with any loss of semi-natural habitat or pollution that could act in a cumulative manner to result in significant negative effects to any European site. I am satisfied there are no projects which can act in combination with the development that could give rise to significant effects to European sites within the zone of influence. In this regard the remainder of the Z10 zoned lands included in the submitted masterplan have no proposals to be brought forward at this time.
- 11.119. No mitigation measures are required to come to these conclusions. I consider the provision of the surface water drainage system and construction environment management measures are standard measures and not a mitigation measure for the purpose of avoiding or preventing impacts to any of the above identified European Sites.

Overall Conclusion

*Screening Determination*

- 11.120. Having carried out Screening for Appropriate Assessment of the project in accordance with Section 177U of the Planning and Development Act 2000 (as

amended), I conclude that the project individually or in combination with other plans or projects would not be likely to give rise to significant effects on the South Dublin Bay & River Tolka Estuary SPA, South Dublin Bay SAC, North Dublin SAC, North Bull Island SPA and North West Irish Sea SPA, or any other European site, in view of the Conservation Objectives of those sites, and Appropriate Assessment (and submission of a NIS) is not therefore required.

11.121. This determination is based on:

1. The scale of the development on fully serviced lands.
2. Flow distance to, and weak indirect connections to, and dilution factor associated with, the relevant waterbodies before connectivity the South Dublin Bay & River Tolka Estuary SPA and South Dublin Bay SAC with which there is hydrological connectivity being at distances of c.4.5km to the east, and that to the North Dublin SAC and North Bull Island SPA with which there is hydrological connectivity being at distances of c.7.3km to the east, and that to the North West Irish Sea SPA with which there is hydrological connectivity being at distances of c.8.7km to the east
3. No ex-situ impacts on wintering birds.
4. Possible impacts identified would not be significant in terms of site-specific conservation objectives for the South Dublin Bay & River Tolka Estuary SPA, South Dublin Bay SAC, North Dublin SAC, North Bull Island SPA, and North West Irish Sea SPA and would not undermine the maintenance of favorable conservation condition or delay or undermine the achievement of restoring favorable conservation status for those qualifying interest features of unfavorable conservation status.