

An  
Bord  
Pleanála

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

### **Inspector's Report ABP-307545-20**

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#### **Strategic Housing Development**

Modification to previously permitted ABP-304590-19 to provide an additional storey on each of the four no. permitted blocks to provide a total of 26 no. additional apartments and associated site works.

#### **Location**

Walled Garden, Gort Mhuire,  
Dundrum, Dublin 14.

#### **Planning Authority**

Dun Laoghaire Rathdown County  
Council

#### **Applicant**

Walled Orchard GP3 Limited

#### **Prescribed Bodies**

Irish Water

Transport Infrastructure Ireland

National Transport Authority

Minister for Culture, Heritage and the  
Gaeltacht

Heritage Council

An Taisce — the National Trust for  
Ireland

Dun Laoghaire Rathdown County  
Childcare Committee

**Observer(s)**

Irish Water

Transport Infrastructure Ireland (x2)

Wyckham Place OMC & Wyckham  
Point OMC

**Date of Site Inspection**

26/09/2020

03/10/2020

**Inspector**

Lorraine Dockery

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## 1.0 Introduction

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

## 2.0 Site Location and Description

- 2.1. The Inspector's report for File No. 304590-19 gives a detailed description of the site and surrounding area, and below is an extract from this description, with which I generally concur:

*'The site of the proposed development has a stated area of c. 1.09 ha and is located at the eastern end of Wyckham Place, a cul de sac off Wyckham Way (R826), in Dundrum, Dublin 14. The site comprises a disused Walled Garden with derelict outbuildings at its south-eastern end which appear to date from the 1830's and which form part of a Protected Structure. It appears that the Walled Garden and outbuildings were formerly part of the curtilage of Gort Mhuire, a Protected Structure located to the south east, which is in separate ownership and which is currently in use as a nursing home.*

*The stone walls that surround the Walled Garden, and which form the northern, western and eastern boundaries of the site are c. 4 metres high and are relatively intact. The outbuildings are in a poor state of repair and have no roof. The site is overgrown with vegetation, trees and scrub and there are considerable amounts of waste material/rubbish deposited across it.*

*The application site is bounded to the east and north by lands associated with St. Tiernan's Community School, upon which permission has recently been granted for a primary school (Ref. ABP-303041-18), to the west by a narrow laneway and 3 No. single storey houses for the travelling community, and to the south by the Gort Mhuire complex.*

*Wyckham Place presently serves two existing apartment complexes (Wyckham Place and Wyckham Point), 3 No. houses for the travelling community, the application site and the Gort Mhuire complex. The laneway to the west of the site links Wyckham Place to the grounds of St Tiernan's Community School.*

*The site is located c. 850m from Dundrum Town Centre and 900m from the Balally Green Line Luas stop. The surrounding area is generally in residential or educational use, with a mix of two storey housing and more recent apartment developments. The closest apartment developments to the west, Wyckham Point and Wyckham Place, range in height from 5 – 8 storeys'.*

- 2.2. Construction of the permitted development has commenced on site with site accommodation facilities visible, together with some clearance works evident.

### **3.0 Proposed Strategic Housing Development**

- 3.1. The proposed development, as per the submitted public notices, comprises modifications to previously permitted ABP-304590-19 to provide an additional storey on each of the four no. permitted blocks to provide a total of 26 no. additional apartments and associated works at Walled Garden, Gort Mhuire, Dundrum, Dublin 14. The proposal will add an additional storey between floors 2 and 3 of the permitted scheme. The layout of the top floors, which will retain setback from the building line, will be amended to include new communal open space at this level, replacing large terraces associated with penthouse apartments. The proposal will provide for reduced car parking and a new pedestrian opening in the western wall. Some minor alterations to floor plans are also noted.
- 3.2. The following tables set out some of the key elements of the proposed scheme:

3.3. Table 1: Key Statistics

	<b>Proposed</b>	<b>Permitted (ABP-304590-19)</b>
<b>Site Area</b>	1.0932 ha	1.0932 ha
<b>No. of units</b>	142 apartments	116 apartments
<b>Other uses</b>	Concierge- 53 m <sup>2</sup> Media Suite-71 m <sup>2</sup> Gym- 62 m <sup>2</sup>	Concierge- 42 m <sup>2</sup> Media Suite- 69 m <sup>2</sup> Gym- 64 m <sup>2</sup>
<b>Density (nett)</b>	130 units/ha	106.5 units/ha
<b>Height</b>	6 storeys	5 storeys
<b>Public Open Space Provision</b>	2,437m <sup>2</sup> (22%)	2,149 m <sup>2</sup> (20%)
<b>Car Parking Provision</b>	25 spaces (0.18 spaces/unit)	36 spaces 0.31 spaces/unit)
<b>Bicycle Parking Provision</b>	396 spaces (2.8 spaces/unit)	311 spaces (2.7 space/unit)
<b>Access</b>	From Wyckham Place	From Wyckham Place
<b>Part V</b>	14 units- 8 x 1bed; 6 x 2 bed	11 units- 7 x1 bed; 4 x 2 bed

Table 2: Unit Mix

	1 bed	2 bed	3 bed	Total
PROPOSED	50 (35%)	92 (65%)	-	142
PERMITTED	40 (35%)	76 (65%)	-	116

- 3.4. The walls of the Walled Garden and the outbuildings, which are Protected Structures, will be retained and refurbished. The outbuildings will house the resident's communal facilities. A Material Contravention Statement has been submitted in relation to the matter of car parking.
- 3.5. No childcare facility is proposed and a Crèche Assessment has been submitted with the application. This report concludes that the proposal provides for an increase of 26 new apartments above that permitted previously under ABP-304590-19. These additional units would equate to 1 more child in the 0-4 age group based on census information for the area. It is considered by the applicant that this is a small increase and does not warrant the provision of a crèche.

- 3.6. In term of site services, it is proposed that the development will provide for new connections into existing public infrastructure. An Irish Water Design has been submitted, which states that based on the information provided, Irish Water has no objection to the proposal.
- 3.7. Included with the application are details of ownership from Walled Orchard GP3 Limited.
- 3.8. It is noted the subject site is included on the Dun Laoghaire- Rathdown County Council Vacant Site Register, within the meaning of the Urban Regeneration and Housing Act 2015 (as amended).

#### 4.0 **Planning History**

##### Subject Site:

##### ABP-304590-19:

Permission GRANTED for 116 no. apartments in 4 no. blocks of up to 5 storeys. The subject proposal is a modification of and will supersede this development. It will provide an additional storey on each block (+26 no. units) and includes some modifications to the top floor to provide communal garden areas in place of private terraces.

##### PA Ref. D15A/0772/ABP PL06D.246252:

Permission REFUSED for 108 apartments in two separate 4 storey blocks with basement car parking with 6 no. duplex units within the farm building complex.

##### PA Ref. D06A/1588:

Permission GRANTED for 47 no. 2-3 storey mews style dwellings.

##### Adjoining Lands

##### ABP-303041-18 (D18A/0865):

Permission GRANTED for a new primary school within the grounds of St. Tiernan's Community School.

## 5.0 Section 5 Pre Application Consultation

5.1.1. A Section 5 pre application consultation took place at the offices of An Bord Pleanála on the 11<sup>th</sup> May 2020. Representatives of the prospective applicant, the planning authority and An Bord Pleanála were in attendance. Following consideration of the issues raised during the consultation process, and having regard to the opinion of the planning authority, An Bord Pleanála was of the opinion that the documentation submitted would constitute a reasonable basis for an application for strategic housing development to An Bord Pleanála (Ref. ABP-306686-20).

5.1.2. The prospective applicant was advised that the following specific information should be submitted with any application for permission:

1. Notwithstanding that the proposal constitutes a reasonable basis for an application the prospective applicant is advised to address the following in the documents submitted:

(a) Provide evidence that Irish Water has confirmed that it is feasible to provide water and wastewater services and that the relevant networks have the capacity to service the development. This application should address, inter alia, the issues raised in the submission received by An Bord Pleanála from Irish Water.

(b) Provide further justification for the level of car parking proposed. The justification should include an analysis of car parking demand that is likely to be generated by the proposed development taking account of the locational context and level of connectivity (by all modes) to services and employment generators.

(c) Provide additional drainage details. The details should address the matters raised in the Report of the Drainage Division of Dun Laoghaire Rathdown County Council, as contained in the PA's submission dated March 2020.

2. Details of Part V provision. The details should address the matters raised in the Report of the Housing Division of Dun Laoghaire Rathdown County Council, as contained in the PA's submission dated March 2020.

3. Details in relation to the proposed pedestrian connections into the adjoining school site, including methodology for delivery of the connections. The details should have regard to the matters set out in the PA's submission dated March 2020.
4. A housing quality assessment which provides the specific information regarding the proposed apartments required by the 2018 Guidelines on Design Standards for New Apartments. The assessment and/or the statement of consistency should set out how the proposed apartments comply with the various requirements of those guidelines and its specific planning policy requirements. A building lifecycle report for the proposed apartments in accordance with section 6.13 of the 2018 guidelines should also be submitted.

### **Applicant's Statement**

A statement of response to the Pre-Application Consultation Opinion was submitted with the application, as provided for under section 8(1)(iv) of the Act of 2016. This statement provides a response to each of the specific information raised in the Opinion.

## **6.0 Relevant Planning Policy**

### **6.1. National Planning Policy**

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

- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (including the associated Urban Design Manual)
- Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities
- Urban Development and Building Heights, Guidelines for Planning Authorities
- Design Manual for Urban Roads and Streets

- The Planning System and Flood Risk Management (including the associated Technical Appendices)
- Childcare Facilities – Guidelines for Planning Authorities
- Architectural Heritage Protection, Guidelines for Planning Authorities
- Climate Action Plan

Other policy documents of note:

- National Planning Framework

Objective 13

In urban areas, planning and related standards, including in particular building height and car parking will be based on performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.

Objective 27

...to ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments, and integrating physical activity facilities for all ages.

Objective 35

Increase residential density in settlement, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

- Regional Spatial & Economic Strategy for the Eastern & Midland Regional Assembly

## 6.2. Local Planning Policy

The Dún Laoghaire-Rathdown County Development Plan 2016-2022 is the operative County Development Plan for the area.

### Zoning:

'Objective A' which seeks to 'protect and/or improve residential amenity'

The 'Gort Mhuire Centre' (RPS No. 1453) is listed in the Record of Protected Structures in Appendix 4 of the Plan and is described as 'water gardens, garden walls and farm building complex, house, ornamental ironwork, conservatory and water tower'. The description refers to the overall Gort Mhuire complex. The 'Institutional' reference to the Gort Mhuire house is noted.

Dundrum is designated a Major Centre in the Metropolitan Area in the Core Strategy Figure 1.1. The site is included in Figure 1.3 as part of the 410 ha of serviced land which are to yield 18,000 residential units. It is further noted that "In addition to the major parcels of zoned development land detailed above, the ongoing incremental infill and densification of the existing urban area will generate, over time and on a cumulative basis, relatively significant house numbers". It is stated that a new Local Area Plan is to be prepared for Dundrum during the life of the County Plan. The site is located a short distance outside the indicative map for the Local Area Plan.

Chapter 2 outlines that the Council is required to deliver c.30,800 units over the period 2014 – 2022. It is stated that the Council in seeking to secure this objective will focus on three strands, namely: increasing the supply of housing; ensuring an appropriate mix, type and range of housing; and, promoting the development of balanced sustainable communities.

There are a number of policies and objectives within the operative County Development Plan in relation to residential development; urban design principles, transport, building heights and other such matters.

Housing policies (section 2.1.3) include:

Policy RES3: Residential Density, which promotes higher residential densities in the interests of promoting more sustainable development whilst ensuring a balance

between this and ensuring the reasonable protection of residential amenities and established character of areas;

Policy RES4: Existing Housing Stock and Densification, which encourages the densification of existing housing stock to retain population levels,

Policy RES7: Overall Housing Mix, which encourages the provision of a wide variety of housing and apartment types.

Policy AR1 relates to Protected Structures and Part(iv) is to “Ensure that new and adapted uses are compatible with the character and special interest of the Protected Structure.”

Policy ST3: It is Council policy to promote, facilitate and cooperate with other transport agencies in securing the implementation of the transportation strategy for the County and the wider Dublin Region as set out in Department of Transport’s ‘Smarter Travel, A Sustainable Transport Future 2009 –2020’ and the NTA’s ‘Greater Dublin Area Draft Transport Strategy 2016-2035’. Effecting a modal shift from the private car to more sustainable modes of transport will be a paramount objective to be realised in the implementation of this policy.

Appendix 9 details the Building Height Strategy. Section 4.8 relates to ‘residual areas’ and states that a maximum of 3-4 storeys may be permitted in appropriate locations - for example on prominent corner sites, on large redevelopment sites or adjacent to key public transport nodes - providing they have no detrimental effect on existing character and residential amenity. Furthermore, it states that there will be situations where a minor modification up or down in height by up to two floors could be considered and these factors are known as ‘Upward or Downward Modifiers’.

#### Section 4.8.1 Upward Modifiers

It is stated that Upward Modifiers may apply where: the development would create urban design benefits; would provide major planning gain; would have a civic, social or cultural importance; the built environment or topography would permit higher development without damaging appearance or character of an area; would contribute to the promotion of higher densities in areas with exceptional public transport accessibility; and, the size of the site of e.g. 0.5 ha could set its own

context. To demonstrate that additional height is justified, it will be necessary for a development to meet more than one 'Upward Modifier' criteria.

### 6.3. **Applicant's Statement of Consistency**

A Statement of Consistency with local and national policy has been submitted with the application, as per Section 8(1)(iv) of the Act of 2016.

A Material Contravention Statement has been submitted in relation to the matter of car parking.

## 7.0 **Observer Submissions**

7.1. In total, one observer submission was received. The content of the submission received on behalf of Wyckham Place OMC & Wyckham Point OMC may be broadly summarised as follows, with the topics expanded upon where necessary within my assessment:

### General

- Support the principle of intensification of residential density at the subject site, however such density should be naturally limited by adherence to the principles of good urban planning whilst respecting residential amenities and built heritage

### Height/Density

- Acknowledges that this is an accessible urban location, that the established built context includes six-storey buildings, however site is architecturally sensitive, being located within curtilage of Protected Structure
- Negative impacts on both built heritage and residential amenities
- Not considered to be sustainable development
- Highlights sections of Urban Development and Building Height Guidelines in support of their argument
- Does not adhere to Building Height Strategy of CDP, is in contravention of same, which is grounds for refusal

- Justification for additional height based on surrounding developments is not accepted
- Overdevelopment of site- diminish value/dignity of Protected Structure; place additional strain on childcare and educational services; contribute to significant amounts of traffic circulation & compete for limited parking; small constrained site.
- Substandard development of low amenity quality

#### Built Heritage

- Setting of Protected Structure is a 'downward modifier' as outlined in CDP
- Negative impact on protected built heritage at this sensitive site
- Impacts of increased massing on Protected Structure

#### Insufficient Parking Provision

- Will not be able to comply with Condition 8b of previous permission on site (incorrectly referred to as Condition 8b, it is Condition 7b)
- Will give rise to unacceptable levels of on-street parking and overspill in surrounding area
- Proposed car sharing is a public service and should be open to members of the public
- Inadequacy of public transport- premature pending advance of infrastructural capacity required to justify development

#### Procedural Matters

- Inaccurate address set out in public notices- contends that while public notices states Dublin 14, the site is located within Dublin 16.
- Inconsistency in documentation

#### Other Matters

- Inadequate childcare provision in an area where demand for childcare is high

## 8.0 Planning Authority Submission

- 8.1. In compliance with section 8(5)(a) of the 2016 Act the planning authority for the area in which the proposed development is located, Dun-Laoghaire Rathdown County Council, submitted a report of its Chief Executive Officer in relation to the proposal. This was received by An Bord Pleanála on 07<sup>th</sup> September 2020. The report may be summarised as follows:

### **Information Submitted by the Planning Authority**

Details were submitted in relation to the pre-application consultations, site location and description, proposal, zoning, planning history, interdepartmental reports, submissions/observations, summary of views of elected members, policy context and assessment. A summary of representations received was outlined.

#### Summary of Inter-Departmental Reports

##### Drainage Division:

Satisfy requirements, subject to conditions

##### Transportation Planning Division:

Proposed level of reduced parking unacceptable. Refusal recommended

Conditions attached.

##### Housing Department:

Condition attached

##### Conservation Report:

If permitted, this will result in a development of apartment blocks encircled by a historic stone wall; as opposed to being a residential development designed with respect to its location within a historic Walled Garden

##### Waste Services Section:

No objections raised, subject to conditions

A thorough and detailed report was received. The main issues raised in the assessment which shall be expanded upon, where necessary, within my assessment are as follows:

Proposed development considered acceptable in principle, subject to assessment of key changes proposed in this application

Density: In light of Government guidelines and policy, site's location in a suburban part of the built-up area of Dublin city and suburbs, in relatively close proximity to public transport and local shops and services as well as Dundrum Town Centre, the proposed density is considered acceptable in principle.

Height: No objection to proposed height at this location, subject to assessment of impacts on visual and residential amenities

Transport/Parking: Acknowledges benefit of omitting car parking spaces from within Walled Garden. Refers to report of Transportation Dept with regards reduction in car parking spaces. Significant concerns raised in relation to limited car parking, refusal recommended in this regard

Pedestrian Link/Permeability: Disappointing that potential link to NE has been lost-calls into question justification for increased density and reduced parking. Available routes as proposed would be circuitous and adjacent to heavily trafficked routes

Open Space: Welcomes improvements to open space area. Welcomes provision of roof gardens as opposed to excessive balcony space to penthouse units

Mix: No issue raised, notes extensive stock of traditional, family sized units in the area

Residential Amenity: Additional floor will not give rise to additional harm to properties examined. No concerns in relation to daylight/sunlight

Quality of Residential Units: Satisfied that proposal meets all relevant SPPRs

Building Lifecycle Report: Considered acceptable

Surface water drainage: Generally satisfied requirements, subject to conditions

Flood Risk Assessment: Considered to be in accordance with Appendix 13 of CDP

Ecology: No issues raised

Childcare Facility: In agreement with applicant, with regards non-provision of childcare facility

Part V: Recommends condition

AA/EIA: Notes ABP is competent authority

Taking in Charge: Stated that no areas to be taken-in-charge

Development Contributions: Recommends condition in event of grant of permission

### Conclusion

The report concludes that proposal reflects national policy guidance and promotes greater efficiency in use of zoned lands and densities proximate to high frequency public transport. Increase in height is visually acceptable, no significant harm to existing or future residential amenity. Complies with requirements of 'Upward Modifiers' as set out in CDP and is accordance with Appendix 9 of same. Serious concern in relation to decrease in car parking spaces. Concerns with regards new pedestrian access on western boundary and its lack of meaningful benefit for future residents in terms of shorter journey time to the LUAS. Considers that there are better options available in this regard.

Refusal recommended for the following reason:

The proposed car parking/car provision of 25 spaces to serve a development of 142 units is significantly deficient by reference to Table 8.2.3: Residential Land Use – Car Parking Standards of the 2016-2022 County Development Plan and is inconsistent with the relevant standards as set out in the Apartment Guidelines 2018, and would give rise to unacceptable levels of on-street parking and overspill in the surrounding areas. The proposed development would therefore seriously injure the amenities of the area and endanger public safety by reason of traffic hazard and obstruction of road users and would therefore be contrary to the proper planning and sustainable

development of the area. It is noted that the pedestrian and cycle linkages to major public transport in Dundrum to the north are not of the high quality that would justify a scheme of the high density and low car parking provision proposed.

The report includes a summary of the views of relevant Elected Members, as expressed at the Dundrum Area Committee meeting held on 27<sup>th</sup> July 2020 and are summarised below:

- Pedestrian, cycle and public transport facilities
- Car parking
- Impact on residential amenity
- Nature of development
- Other issues

## 9.0 Prescribed Bodies

9.1. The applicant was required to notify the following prescribed bodies prior to making the application:

- Irish Water:
- Transport Infrastructure Ireland
- National Transport Authority
- Minister for Culture, Heritage and the Gaeltacht
- Heritage Council
- An Taisce — the National Trust for Ireland
- Dun Laoghaire Rathdown County Childcare Committee

Two bodies have responded and the following is a brief summary of the points raised. Reference to more pertinent issues are made within the main assessment.

### Transport Infrastructure Ireland

Two submission received, dated 20<sup>th</sup> July 2020 and 31<sup>st</sup> July 2020.

Will rely on planning authority to abide by official policy in relation to development on/affecting national roads as outlined in DoECLG Spatial Planning and National Roads Guidelines for Planning Authorities (2012), subject to the following:

- Proposed development shall be undertaken in accordance with the recommendations of the Transport (Traffic Impact) Assessment submitted. Any recommendations should be incorporated as conditions on the permission, if granted. Any additional works required as a result of the Assessment should be funded by the developer
- Highlights that issues with regard to sustainable mobility and public transport are a matter for the NTA

### Irish Water

Applicant has engaged with IW in respect of the design proposal for which they have been issued a Statement of Design Acceptance for the development. Therefore, IW requests the following condition be attached to any grant of permissions that the applicant sign a connection agreement with IW prior to the commencement of the development and adhere to the standards and conditions set out in that agreement.

## 10.0 Assessment

10.0.1 I have had regard to all the documentation before me, including, *inter alia*, the report of the planning authority; the submissions received; the provisions of the Dun Laoghaire Rathdown County Development Plan 2016; relevant section 28 Ministerial guidelines; provisions of the Planning Acts, as amended and associated Regulations; together with the planning history of the site. I have visited the site and its environs. In my mind, the main issues relating to this application are:

- Principle and Quantum of Proposed Development
- Height/Scale/Density/Unit Mix/Open Space/Materials
- Architectural Heritage
- Visual and Residential Amenity
- Traffic and Transportation
- Parking/ Planning Authority Recommended Refusal/Material Contravention
- Drainage and Flood Risk
- Other Matters
- Appropriate Assessment
- Screening for Environmental Impact Assessment

### Key Amendments to approved ABP-304590-19

10.0.1 The attention of the Board is drawn to the fact that there is an extant permission on the site, ABP-304590-19, for 116 apartments and associated site works, permitted under the SHD legislation. Construction of the permitted development has commenced on site. It is stated in the submitted documentation that all of the Japanese Knotweed has been treated, site excavation works have begun and repair to the garden walls has commenced. Vegetation in the Protected Structure has been cleared and repair of these structures has also commenced.

10.0.2 The key changes proposed in this current application are:

- Increase in height from five storeys to six storeys
- Increase in number of units by 26
- Removal of car parking from within Walled Garden (with exception of two accessible spaces)

A detailed and comprehensive assessment of the previous application, ABP-304590-19 was undertaken, as set out in the Inspectors Report. I refer the Board to same. I would agree with the planning authority when they state that that principle of residential development in the form of apartment blocks, height of five storeys, layout, landscape design, architectural design and restoration works to heritage assets has been established through the previous grant of permission ABP-304590-19.

## **10.1 Principle and Quantum of Proposed Development**

10.1.1 Having regard to the nature and scale of development proposed, namely an application for 142 residential units located on lands which are located within the zoning objective 'A', in which residential development is 'permitted in principle', I am of the opinion that the proposed development falls within the definition of Strategic Housing Development, as set out in section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016. Given that An Bord Pleanála has recently granted permission for 116 no. apartments on this site, it is my opinion that the principle of apartment development has been established on the lands. The planning authority in their report concur with this opinion.

10.1.2 I note the policies and objectives within Rebuilding Ireland – The Government's Action Plan on Housing and Homelessness and the National Planning Framework – Ireland 2040 which fully support and reinforce the need for urban infill residential development such as that proposed on sites in close proximity to quality public transport routes and within existing urban areas. The NPF also signals a shift in Government policy towards securing more compact and sustainable urban development within the existing urban envelope. It is recognised that a significant and sustained increase in housing output and apartment type development is necessary. It recognises that at a metropolitan scale, this will require focus on

underutilised land within the canals and the M50 ring and a more compact urban form, facilitated through well designed higher density development.

10.1.3 I am of the opinion that given its residential zoning, the delivery of residential development on this prime site, in a compact form comprising well-designed, higher density units would be consistent with policies and intended outcomes of the NPF and Rebuilding Ireland – The Government’s Action Plan on Housing and Homelessness. The proposed development will increase residential accommodation, enhance existing recreational amenity space provision and will be a positive for the Protected Structure, due to the refurbishment/reinstatement works proposed. I have no information before me to believe that adequate services, amenities and public transport do not exist in the wider area to cater for the development proposed. The site is considered to be located in a central and accessible location, close to good public transport in an existing serviced area. The proposal serves to widen the housing mix within the general area and would improve the extent to which it meets the various housing needs of the community. This is especially pertinent given the extent of traditional, family homes within the wider area. I therefore consider the proposal to be acceptable in principle.

## **10.2 Height/Scale/Density/Unit Mix/Open Space/Materials**

### Context

10.2.1 The proposal provides for 142 residential units, an increase in 26 units from that previously permitted on the site. The overall design and layout, together with works to heritage assets will remain largely unchanged from that previously permitted under ABP-304590-19. The planning authority had previously recommended a refusal of permission due to the level of parking proposed, but they otherwise considered the scheme to be of high quality in terms of design, layout and restoration of the heritage assets on the site. The upgrade and refurbishment works to the Walled Garden, the reinstatement of the water fountain and historic well, together with the eradication of the Japanese knotweed from the site are all significant planning gains for the area.

## Height/Scale

10.2.2 Under the previous application, ABP-304590-19, permission was granted for a maximum of five storeys across the proposed four apartment blocks. The current application proposes one additional floor over and above that previously permitted, to be placed between floors 2 and 3, thereby retaining the setback at top floor level as permitted. The planning authority acknowledges that the height of the surrounding residential development at Wyckham Point rises to eight storeys and that this provides a contextual setting for the proposed six storey development. I would concur. The third party submission received, while acknowledging that this is an accessible urban location and that the established built context includes six-storey buildings, considers that the site is architecturally sensitive, forming part of the Protected Structure.

10.2.3 I would concur with the third party submission that the site is architecturally sensitive and requires an appropriate design solution to accommodate these sensitivities. Notwithstanding this, I consider that the proposed height, scale and massing is generally considered acceptable. I note the locational context of the site, in an area acknowledged in the Inspector's Report in the previous application to be one which is transitional in area moving from a low density, two-storey suburban area to a more urban area with a mix of heights and densities. I am satisfied that the site has capacity to absorb a development of the nature and scale proposed. The third party submission received raised issue with regards the height of the proposed development vis a vis the Upward and Downward Modifiers as set out in the operative County Development Plan. I note Appendix 9 of the operative County Development Plan that sets out the Building Height Strategy for the county. This allows for a height of 3-4 storeys for apartment development on large redevelopment sites. This would be considered one such large redevelopment site. The CDP acknowledges that there are instances where upward or downward modifiers may be applied by up to two floors. In this instance, the site area is in excess of 0.5 hectares, thereby able to create its own character/context, an important historic site is being retained and enhanced and the location and scale of the existing buildings would allow the recommended height to be exceeded with little or no demonstrable impact on its surrounds. It is therefore considered that the Upward Modifiers have been met. I would concur with the planning authority when they state that the height

difference is minimal in the wider context and does not read as being visually obtrusive. The planning authority are generally satisfied that the height accords with the Building Height Strategy of the operative County Development Plan. I am cognisant of national policy in this regard, in particular the Urban Development and Building Heights, Guidelines for Planning Authorities (2018). I consider this to be a suburban area close to Dublin city centre where excellent transport links are evident and it is my opinion that the height/density/scale such as that proposed is to be welcomed at such locations.

#### Density/Unit Mix

- 10.2.4 The extant permission on the site, ABP-304590-19 provided for 116 no. apartments on a stated site area of 1.089 hectares, giving a density of 106.5 units/ha. The proposal before me provides for an additional 26 no. apartments, giving an overall total of 142 residential units. The stated site area has increased marginally to 1.0932 hectares. This gives a proposed density of 130 units/ha.
- 10.2.5 The third party submission received states that while they support the principle of intensification of residential density at the subject site, such density should be naturally limited by adherence to the principles of good urban planning whilst respecting residential amenities and built heritage. I would concur with this statement and consider that the proposal before me achieves this balance. Both local and national policy seeks to encourage development at key locations particularly close to public transport nodes. The policies and objectives of the NPF are noted in relation to the delivery of compact urban growth at appropriate locations. Given the locational context of the site with the suburban area of Dublin, its relative close proximity to public transport facilities, together with its proximate location to the services and facilities of Dundrum, I consider that the density as proposed is appropriate in this instance. It is noted that the planning authority considers the density proposed to be acceptable and have not raised issue in this regard.
- 10.2.6 Unit mix is acceptable with 35% of the proposed units being one-bed and 65% being two-bed. While the number of units has increased from that previously permitted, the percentage mix of units remains unchanged. I consider this mix to be acceptable in an area where conventional family homes, three and four bed properties, traditionally dominated. I also consider the proposal to be in accordance with

SPPR1 and SPPR2 of the Apartment Guidelines. The planning authority is also satisfied in this regard. The proposed development would lead to a good population mix within the scheme, catering to persons at various stages of the lifecycle, in accordance with the Urban Design Manual. Given the established nature of the area and the larger properties that are characteristic of the area, I am of the opinion that the proposed development could aid those wishing to downsize but remain in the general area, thereby freeing up some existing housing stock in the locality. Unit size is also acceptable and all units are in excess of minimum standards. It is stated that approximately 52% of proposed apartments exceed the minimum standards by more than 10%. This is acceptable and meets the requirements of SPPR3 of the aforementioned Apartment Guidelines. In addition, I note that 76% of units are dual-aspect, and are therefore meet the requirements of SPPR4.

### Open Space

10.2.7 The layout of the proposed scheme is largely unaltered from that previously permitted under ABP-304590-19 with the main area of open space within the centre of the scheme, overlooked by the proposed apartment blocks. The area of public open space has increased however from that previously approved from 2,129m<sup>2</sup> to 2,437m<sup>2</sup>. This has been achieved by the removal of the car parking spaces from within the Walled Garden. The reinstatement of the circular water fountain within the quadrant, which reflects the original historic water feature of the Walled Garden, together with the re-opening of an historic well is also welcomed.

10.2.8 Private amenity space is proposed to all units, all in excess of minimum requirements. It is noted that there is some increase in private open space, by means of larger balconies and winter gardens, from that previously permitted. This is welcomed and is considered to be a planning gain from that previously permitted. Communal open space is proposed, which exceeds the requirements of the Apartment Guidelines. This has also increased from that previously permitted, by virtue of the addition of a roof garden to each apartment block. This is achieved by reducing the private open space area associated with the penthouse levels. This too is welcomed and I would concur with the planning authority when they state that this alteration brings wider benefits for residents.

10.2.9 The planning authority welcomes the improvement to the open space area, including the reinstatement of the water fountain. They do note however that as no open space is proposed to be taken in charge, and due to the layout and access arrangements, none of the open space can reasonably be considered as 'public' in the true sense. While I acknowledge this point, I do note that in excess of 5,000 square metres of open communal/public open space is proposed in this current scheme, which I consider to be appropriate and in excess of Development Plan requirements. This matter was addressed and considered acceptable under ABP-304590-19 and I too am satisfied in this regard.

#### Materials/Finishes

10.2.10 The proposed alterations would integrate well with the scheme previously permitted under ABP-304590-19. Proposed elevational treatment, with limited palette of materials is considered acceptable.

### **10.3 Architectural Heritage**

#### Context

10.3.1 I refer the Board to section 11.7 of the Inspector's Report of ABP-304590-19, in which a comprehensive assessment of 'Architectural Heritage' was undertaken. I concur with the planning authority when they state that the principle of restoration works to the heritage assets has been established under this aforementioned grant of permission.

10.3.2 In the interests of clarity, it is noted that the application site forms part of a Protected Structure referred to as the 'Gort Mhuire Centre' (RPS No. 1453), which is described in the Record of Protected Structures as 'water gardens, garden walls and farm building complex, house, ornamental ironwork, conservatory and water tower'. I note that the application site comprises the Walled Garden and outbuildings (also referred to as the Stable Yard), and that the remainder of the Gort Mhuire complex is under separate ownership.

10.3.3 A significant amount of information has been submitted in relation to architectural heritage, including, inter alia, reports which address the history and condition of the Walled Garden and stable building. It appears that the Walled Garden dates from the 1830s, while the stable yard dates from 1850s. Some minor modifications are

proposed from that permitted under ABP-304590-19 including amalgamation of two windows. It is noted that the initial site clearance works have revealed a well, which appears to be depicted on the OS map of 1865. It is proposed to open up this well and make a feature of it and if feasible, to use the water for landscape irrigation. This is a welcome improvement to the scheme.

#### Parking within the Walled Garden

10.3.4 The attention of the Board is drawn to the fact that the omission of much of the parking from the Walled Garden is one of key amendments contained in this current application. I note that in the previous grant of permission, ABP-304590-19, 13 no. car parking spaces were provided for within the Walled Garden, to the south of the central courtyard area. The current proposal omits all but two accessible car parking spaces from within the walls. Section 11.4.24 of the Inspector's report for application ABP-304590-19 states that *'while it would be preferable, in my opinion for all car parking to be kept outside of the Walled Garden area, thus maintaining it as a car-free and more peaceful environment which would be in keeping with its historic character, it is clear that the constrained nature of the site requires a balance between car parking provision and protection of architectural and historic character...'*. I would concur with this statement. The planning authority state that they see the benefit of this approach as regards issues of character and placemaking and the current proposal brings a planning gain in creating a more peaceful setting within the development for future residents. However this presents a significant issue for the planning authority with regards the level of parking proposed. I shall deal with the matter of quantum of car parking below but I am of the opinion that a balance needs to be achieved between providing residential development of a scale appropriate to the site's location whilst at the same time protecting the architectural heritage of the site and its environs, whilst also providing an appropriate level of parking. I am of the opinion that in this instance, the overall low level of parking proposed may be the compromise required to appropriately develop the site whilst protecting and enhancing its architectural heritage. From an architectural heritage viewpoint, I am of the opinion that the planning gain associated with the removal of the parking spaces from the Walled Garden and subsequent landscaping, together with the reinstatement of a water fountain and well outweighs

the loss of parking spaces in this area. The proposal allows the area to be restored in an appropriate manner, making it available for all residents of the proposed scheme into the future. I shall deal with the matter of parking provision further below.

### Protected Structure

10.3.5 I concur with the Inspector in the report of ABP-304590-19 that subject to conditions, the proposed development would result in the long-term enhancement and conservation of the Protected Structure. I also concur that location of the Gort Mhuire house on elevated lands, angled away from the application site, with mature planting between the sites would serve to mitigate any potential adverse impacts. I consider that this assessment also holds true in relation to the proposal before me. The Conservation Officer in the planning authority expressed concerns with regards the proposed development, in ABP-304590-19 and some of these concerns are reiterated in this current application. The Conservation Officer would not appear to concur with the opinion of the planning authority that the addition of a further storey on the permitted apartment block would not cause any further harm to the Protected Structure. I, however, would concur with the opinion of the planning authority in this regard and consider that the provision of an additional floor on each of the four apartment blocks would not have significant impacts on the character and setting of the Protected Structure, over and above that previously permitted on site.

### Conclusion

10.3.6 I am of the opinion that the proposed works would not detract from the character or setting of any elements of the Protected Structure, Gort Mhuire Centre (RPS 1453), to such an extent as to warrant a refusal of permission. The impacts of the proposed additional floor on the Protected Structure would be negligible. I am of the opinion that the restoration of the stable building for communal uses and the removal of the majority of the parking spaces from within the Walled Garden would represent a degree of planning gain for future residents of the proposed scheme. I am therefore satisfied in relation to the matter of architectural heritage.

## 10.4 Visual and Residential Amenity

### Visual Amenity

10.4.1 Impacts on amenity have been raised as a concern by the third party observer. I do not concur with the observer when it is stated that the proposal would provide low quality of amenity. I consider that the proposal would provide for a development that would be an attractive addition to the streetscape at this location. Photomontages and CGIs, together with a Landscape and Visual Appraisal have been submitted with the application. The submitted Landscape and Visual Appraisal finds that the proposed development would have a medium impact on the area as a whole with a number of positive changes noted from an architectural heritage viewpoint. It concludes that the magnitude of effect on the landscape/townscape character of the wider locality would be negligible. The proposal involves the addition of one additional floor, between floors 2 and 3 on the previously permitted development ABP-304590-19. The proposed development will now be six storeys in height, with top floor setback. I note the height of the existing Gort Mhuire building (Protected Structure), together with the height of existing development in the immediate vicinity along Wyckham Place, which extends to eight storeys in height. I consider that the increase in height of one additional storey would have negligible increased visual impacts, over and above that previously permitted on the site. In fact, I consider that the additional height on the structure could be considered to improve the visual appearance of the proposed development, from that previously permitted and I consider it to be an appropriate design response. The planning authority concludes that the increase in height is visually acceptable. I am satisfied that the proposed development will not have a significant adverse impact on the visual amenities of sensitive receptors in the area, such as existing residential dwellings and the Protected Structures at the adjacent Gort Mhuire complex. The site is currently vacant, elements of the Protected Structure have been allowed to fall into significant disrepair and the site adds little to the streetscape at this location. In my opinion, the appropriate redevelopment of the site would be of benefit to the wider area.

## Residential Amenity

10.4.2 Concerns regarding impacts on residential amenity have been raised in the third party submission received and these are noted. The principle of an apartment development has been established on the site, under ABP-304590-19 and I consider that the proposal before me would have negligible additional impacts on residential amenity over and above what was previously permitted. Having regard to the orientation of the site, the separation distances involved and the design of the proposed units, which includes for setback at top floor levels, I do not have undue concerns with regards the impacts on amenity of properties in the vicinity of the proposed development. A Daylight and Sunlight Assessment Report has been submitted with the application, the contents of which appear reasonable and robust. It concludes that the proposal would have negligible impacts on adjacent properties in relation to daylight. The shadow analysis shows that the surrounding properties will not be affected by overshadowing from the proposed development. The planning authority has not expressed concerns in this regard and conclude that they anticipate no significant harm to the residential amenity to existing or future residents. I would concur.

10.4.3 Given the nature of the development proposed, I do not anticipate noise levels to be excessive. There may be some noise disruption during the course of construction works. Such disturbance or other construction related impacts is anticipated to be relatively short-lived in nature. The nature of the proposal is such that I do not anticipate there to be excessive noise/disturbance once construction works are completed. I note that a Construction Management Plan has been submitted with the application, which deals with the issues of noise and dust control, traffic management and waste management. However, if the Bord is disposed towards a grant of permission, I recommend that a Construction Management Plan be submitted and agreed with the Planning Authority prior to the commencement of any works on site. A Traffic Management Plan will also be required thus ensuring the appropriate management of traffic to and from the site. As such these plans are considered to assist in ensuring minimal disruption and appropriate construction practices for the duration of the project. This is particularly pertinent for the residents of Wyckham Place and surroundings areas. This can be adequately dealt with by means of condition.

10.4.4 The level of amenity being afforded to proposed occupants is considered good.

Adequate separation distances are proposed between blocks to avoid issues of overshadowing or overlooking. Communal resident facilities are located within the stable yard building, which includes for a concierge area, gym, media suite. These are easily accessible to all residents. The planning authority recommend that in the event of permission being granted for the proposed development a condition be attached stipulating that that the facilities within this building are for use by residents only. I consider this to be reasonable. The proposed development complies with all relevant SPPRs of the Apartment Guidelines 2018.

#### Conclusion

10.4.5 Having regard to all of the above, I am satisfied that the impacts on the visual amenity of the area are acceptable and that the proposal would not detract from this amenity to any significant degree. In addition, the level of amenity being afforded to future occupiers of the proposed scheme is acceptable and the proposal if permitted would be an attractive place in which to reside. I note the Inspector's Report of ABP-304590-19 in this regard. The planning authority have not expressed concerns in this regard. I also satisfied that impacts on existing visual or residential amenity would be negligible over and above that previously permitted under ABP-304590-19. I have no information before me to believe that the proposal if permitted would lead to devaluation of property in the vicinity. This is a zoned, serviceable site and I consider the proposal appropriate at this location. I consider that the proposal does not represent over-development of the lands in question. This is a quality development, which includes for community gain in the form of refurbishment of the stable buildings, reinstatement of the water fountain/well and the eradication of the Japanese knotweed from the site.

## **10.5 Traffic and Transportation**

### Context

10.5.1 A Traffic Impact Assessment, Mobility Management Plan and Civil Infrastructure Report has been submitted with the application. The information contained within these reports appears accurate and robust. I draw the attention of the Board to the fact that the third party submission received raised concerns regarding inadequate car parking provision, impacts of overspill parking onto adjoining roads and concerns

regarding capacity of public transport. I shall deal with the matter of car parking in the following section.

### Traffic Impacts

10.5.2 Pedestrian and vehicular access to the development is proposed off Wyckham Place via Wyckham Way. The existing access road junction will be utilised with modifications. Wyckham Place has a 6.5 metre carriageway, cycle paths and footpaths on either side of the road. This road experiences low levels of traffic generation, being a cul-de-sac serving two apartment complexes, 3 no. traveller dwelling units and the Gort Mhuire complex. I refer the Board to section 11.6 of the Inspector's Report for ABP-304590-19, which comprehensively assessed the matters of Traffic and Transport. It was concluded by the Inspector in that report that the proposed development would not result in any significant additional traffic congestion in the area. The TTA concludes that the proposed development does not have significant car trip potential, generating 1 vehicle every 3.3 minutes travelling in the peak direction during both weekday peak hours and adding 1.2% to peak time flows at the Wyckham Roundabout junction. Traffic impacts of the proposed residential development will be at low levels. I would concur with this conclusion and consider that the reduction in car parking provision will aid in reducing traffic levels associated with the site. I note that the planning authority do not raise concerns in relation to traffic and transport matters, subject to conditions, aside from their serious concerns in relation to car parking (dealt with below). In addition, Transport Infrastructure Ireland do not raise concern in this regard, subject to condition.

### Cycle Parking

10.5.3 The applicant proposes a total of 396 bicycle parking spaces (318 long stay and 68 visitor). This figure exceeds the amount recommended in the Apartment Guidelines 2018 and complies with the requirements of the planning authority.

### Pedestrian Connectivity

10.5.4 I note that in the previous application, ABP-304590-19, the issue of the provision of an opening in the northern wall was addressed and on the recommendation of the Inspector, Condition 2 stated that *'The proposed new opening in the northern boundary wall of the Walled Garden to provide pedestrian access to the adjacent school grounds shall be omitted, unless permitted by subsequent planning*

*permission*'. The Inspector considered that it would be inappropriate to permit such a linkage in the absence of an agreement with the adjoining landowner, namely the Department of Education and Skills. It was noted that there is an existing laneway which runs along the western wall of the Walled Garden and which provides a link between Wyckham Place/Avenue and the school grounds. The Inspector continued by stating that the existing laneway will provide a pedestrian link for children resident in the proposed development to access the schools, albeit via a slightly more circuitous route than the new one indicated on the drawings (submitted with ABP-304590-19).

10.5.5 To clarify, there is an existing laneway which runs along the western side of the Walled Garden, and which provides a link between Wyckham Place/Avenue and the school grounds. A previous link from within the Walled Garden to this laneway was blocked up by previous owners but the applicants are proposing to reinstate this, albeit at a slightly different location to that original. This new location is proposed due to the presence of Japanese Knotweed at the original location and concerns over disturbing it. The new access will be provided at a location where there is no Japanese Knotweed. The applicants state that there is no requirement to do any works outside of the application site, as the laneway and existing pedestrian accesses are already in place.

10.5.6 The planning authority would like to see pedestrian entrances on the northern and eastern boundaries of the site that would lead through to the neighbouring St. Tiernan's school. This is considered reasonable and I concur with the planning authority when they state that these links would provide increased permeability through the site to the LUAS via the existing Slang Way River Route. The planning authority also considers that the provision of such meaningful links might to some extent offset a parking provision lower than Development Plan requirements and justify the increase in density sought, as compared with the permitted scheme. The applicants have addressed this matter in the submitted documentation and state that potential links at that location (N and E) would be controlled by the schools and would not enable access to existing pedestrian rights of way over the school site. I note the email correspondence between the applicant and the Department of Education in relation to this matter and I refer the Board to same. While it is a loss that these links haven't been agreed between the parties in advance of submitting

the current application, I do acknowledge the attempts made by the applicants in this regard. I also consider that the matter would not justify a refusal of permission in this regard and note that a link to the laneway is being provided, which will improve connectivity between the site and the wider area. I also note the conditions attached to the grant of permission for the school (ABP-303041-18), which may aid in speeding up the delivery of additional links.

## **10.6 Parking/Planning Authority Refusal Recommendation/Material Contravention**

10.6.1 The issue of car parking provision was raised in both the third party submission received and by the Elected Members. Under ABP-304590-19, 36 car parking spaces were permitted to cater for a development of 116 residential units. This equated to 0.31 spaces/unit. In this current application, the applicant is proposing 25 car parking spaces to cater for a development of 142 residential units. This equates to 0.18 spaces/unit. It is noted that this is not a build-to-rent scheme. The attention of the Board is drawn to the fact that a Material Contravention Statement has been submitted with this current application and the applicants have advertised same within their public notices, as required under the legislation. This Statement deals with the issue of car parking and states that should the Board consider the proposal to represent a material contravention of the Development Plan, they submit that the Board can grant permission under section 9(6) of the Planning and Development (Housing) and Residential Tenancies Act 2016.

10.6.2 I draw the attention of the Board to the fact that the provision of 0.3 spaces/unit was not considered to be a material contravention of the operative County Development Plan, under ABP-304590-19. I also draw the attention of the Board to the fact that the planning authority in their Chief Executive Report, while noting that a Material Contravention Statement has been submitted with the application, do not state that they consider this current proposal to be a material contravention of the operative County Development Plan in terms of car parking. The planning authority consider that permission should be refused for the proposed development due to the deficiency of car parking spaces by reference to Table 8.2.3: Residential Land Use-Car Parking Standards of the 2016-2022 County Development Plan and the Apartment Guidelines 2018.

10.6.3 I note that Table 8.2.3 sets out car parking standards for residential use at a rate of 1 space per 1 bed unit and 1.5 spaces per two-bed unit. This would equate to a car parking requirement of 188 spaces. In total, 25 car spaces are proposed in this current proposal.

10.6.4 It is clear from the above that a substantial shortfall in car parking provision is proposed and that the proposal does contravene Table 8.2.3 of the operative County Development Plan, cited above. It is noted that a shortfall in car parking provision, albeit not to this extent, was permitted under ABP-304590-19 and that proposal also contravened Table 8.2.3 of the operative County Development Plan. I would concur with the applicant when it is stated that there appears to be conflicting objectives in the operative County Development Plan in relation to this matter. I note from an examination of the operative County Development Plan that the written text of section 8.2.4.5 states that '*Car parking standards provide a guide on the number of required off-street parking spaces acceptable for new developments. The principal objective of the application of car parking standards is to ensure that, in assessing development proposals, appropriate consideration is given to the accommodation of vehicles attracted to the site within the context of Smarter Travel, the Government policy aimed at promoting modal shift to more sustainable forms of transport*' (my underlining). Based on this, I question whether the standard of 1 space per one-bed unit and 1.5 spaces per two- bed units could be regarded as a guide only and that 'appropriate consideration' will be given by the planning authority to 'promoting modal shift to more sustainable forms of transport' .

10.6.5 Policy ST3 of the operative CDP reflects that promotion of modal shift and states that '*It is Council policy to promote, facilitate and cooperate with other transport agencies in securing the implementation of the transportation strategy for the County and the wider Dublin Region as set out in Department of Transport's 'Smarter Travel, A Sustainable Transport Future 2009 –2020' and the NTA's 'Greater Dublin Area Draft Transport Strategy 2016-2035'. Effecting a modal shift from the private car to more sustainable modes of transport will be a paramount objective to be realised in the implementation of this policy*'. It could be argued that the proposed development is promoting modal shift to more sustainable forms of transport, in line with both this policy of the operative County Development and national guidance in this regard. This section of the CDP continues by stating that sustainable travel is about the

movement of people and goods in a manner that engenders quality of life and ease of access for all and seeks to encourage a modal shift in favour of public transport and other non-car based modes. The proposed development, could be argued to increase the quality of life for its residents by removing the majority of its car parking spaces from within the historic Walled Garden, whilst at the same time encouraging modal split. Non-car based modes of transport are provided for with over 300 bicycle spaces proposed, while alternative means of transport in the form of 5 car club spaces, which are for exclusive use of the future residents, are also proposed. Permeability is being improved with the reinstated opening onto the laneway to the west. The planning authority acknowledge Policy ST3 of the operative CDP which seeks to promote a modal shift from the private car to more sustainable modes of transport. However, they consider that there is still a requirement for car storage as a component of residential developments. They also note that this is not a build-to-rent proposal where a reduction in car parking may otherwise be acceptable under the provision of the Apartment Guidelines 2018, in certain areas such as central locations and/or proximity to public transport services. While I concur that the issue of car storage is very relevant, it is noted that residents of the scheme will be aware of the limited quantum of spaces when deciding whether or not to live in the proposed scheme and this matter may ultimately influence their decision.

10.6.6 Section 8.2.4.5 of the operative County Development Plan continues by stating that:

‘Reduced car parking standards for any development (residential and non-residential) may be acceptable dependant on:

- The location of the proposed development and specifically its proximity to Town Centres and District Centres and high density commercial/ business areas.
- The proximity of the proposed development to public transport.
- The precise nature and characteristics of the proposed development.
- Appropriate mix of land uses within and surrounding the proposed development.
- The availability of on-street parking controls in the immediate area.
- The implementation of a Travel Plan for the proposed development where a significant modal shift towards sustainable travel modes can be achieved.

- Other agreed special circumstances where it can be justified on sustainability grounds.

10.6.7 In addressing the above, I note the following:

- The operative County Development Plan designates Dundrum as a Major Centre in the Metropolitan Area in the Core Strategy and its location proximate to high density commercial/business areas is noted. The site is located within 900m of Dundrum Town Centre with its associated services and facilities; a short distance from Dundrum village while the Beacon Hospital and employment hub of Sandyford are located approximately 3km from the site. This is an established area, albeit transitional in nature, with a wide range of services and facilities on offer. The site could be considered to be either a Central and/or Accessible Urban Location or Intermediate Urban Location, as per the Apartment Guidelines 2018, more akin to an Intermediate Urban Location in my opinion.
- The proximity of the site to public transport is noted. It is approximately 900m (10 min walk) to Balally Luas station and a number of bus routes travel along Wyckham Way and Sandyford Road. There is good pedestrian and cycle connectivity in the area and I note the provision of a new pedestrian entrance in the western wall of the site will improve access to the Slang Way and beyond.
- The precise nature of the development is such that it is somewhat of a unique site being within the Walled Garden, forming an element of a Protected Structure. The proposal aims to restore and refurbish a neglected stable yard and walled garden and bring into back into everyday use for future generations. In the original application, ABP-304590-19, parking was provided for within the Walled Garden and it was raised by the Inspector at that time, that if all car parking were kept outside the Walled Garden area, it would maintain it as a car-free and more peaceful environment, in keeping with its historic character. I concur that the removal of the parking from this area would provide for a superior development, providing a more peaceful environment that better reflects the historic nature and function of the Walled Garden. Taking cognisance of this, the current application is seeking to omit

all but two accessible spaces from within the Walled Garden. The planning authority acknowledges the benefit of this approach as regards issues of character and placemaking; resulting in a planning gain creating by more peaceful setting within the development for future residents. I would concur. Given the historic nature of the site, I am of the opinion that a 'one size fits all' approach is not appropriate in this instance and a site specific approach is required in terms of overall design, layout and parking provision. This site specific approach to parking provision is advocated in national guidance.

- I note the mix of land-uses in the general area. The principle of relatively high density residential development with reduced parking was established on the site under ABP-304590-19. This is considered to be somewhat of a transitional area, as it moves away from lower density, suburban type dwellings to higher density development which reflects its locational context. Most of the existing suburban type dwellings in the vicinity have ample off-street parking, many with two spaces per property. I didn't observe issues of overspill parking along Wyckham Place, on either of my site visits.
- On-street parking controls were evident along Wyckham Place, with double yellow lines along its length. These parking controls would prevent overspill parking into the immediate areas. The existing two apartment complexes accessing onto Wyckham Place are both gated developments. Issues of illegal parking are a matter for law enforcement, outside the remit of this planning application.
- A Mobility Management Plan, prepared by Barrett Mahony Consulting Engineers has been submitted with the application, the contents of which appear reasonable and robust. In addition to the car parking proposed, it is noted that the development proposal includes for 396 bicycle parking spaces and 4 no. motorcycle spaces. The number of bicycle spaces far exceeds the recommended minimum of 250 spaces. It is noted that of the 25 car parking spaces proposed, 5 no. parking spaces will be dedicated for car club use only, exclusively for residents. Contrary to the opinion of the third party observer, I consider this to be reasonable. It is envisaged that the car club spaces would cater for non-trip-to-work-related car demand of residents of the proposed development. An implementation and management plan for the car club is

contained within the Building Lifecycle and Estate Management Plan submitted with the application. Car club usage is argued to influence modal shift from private car usage to car sharing/public transport use. It is stated that 1 car club vehicle can replace between 10 and 15 private cars, which will therefore in effect increase the car parking provision by up to 75 spaces. Census data shows that use of cars for commuting is low in this area, however high levels of car storage was evidenced. The removal of car storage from the site, shifting the residents to other means of transport is in line with local and national policy in this regard. The provision of car club spaces will aid in the sustainability of parking provision, provide consistency with existing modal splits and will further reduce the traffic impact of the development.

- The matter of special circumstances has been referred to above, namely the location of the site within the Walled Garden, forming part of the Protected Structure Gort Mhuire, and the desire to bring this area back into a use that reflects its former function. This can be more satisfactorily achieved by the substantial omission of cars from this area, with their associated movements and noise.

10.6.8 Based on the above, while Table 8.2.3 of the Plan is noted and that a significant shortfall in parking provision is acknowledged based on the requirements contained therein, I do note section 8.2.4.5 states that '*Car parking standards provide a guide* on the number of required off-street parking spaces acceptable for new developments. This would be in line with national guidance, which emphasises a need to move away from universal parking standards to a more tailored performance-based approach. I am of the opinion that the proposed site is such that it satisfies the criteria set out in section 8.2.4.5 of the operative County Development Plan in relation to reduced car parking standards for appropriate development. I am also satisfied that the proposal is in compliance with Policy ST3 by effecting a modal shift from the private car to more sustainable modes of transport.

10.6.9 Section 8.2.4.5 of the operative County Development Plan states that 'For residential developments, particularly apartment schemes, car parking spaces associated with residential units must be sold off in conjunction with the units and not sold

separately, or let, to avoid non take-up by residents'. This was raised in the previous Inspector's Report for ABP-304590-19 and Condition 7(b) addressed this matter. If the Board is disposed towards a grant of permission, I recommend that a similarly worded condition be attached to any such grant. I also concur with the opinion of the Transportation Department of the planning authority when they state that future purchasers/residents should be advised in advance that there are only limited car parking spaces in this development.

10.6.10 Having regard to the foregoing, I consider that the proposal does not represent a material contravention of the operative County Development Plan. However, if the Board considers otherwise, I can see no reason why section 37(2)(b) of the Planning and Development Act 2000 cannot be invoked. As has been stated above, a Material Contravention Statement has been submitted with regards the matter for car parking. The Board may consider the proposal to be a material contravention of the Dun Laoghaire County Development Plan, in terms of car parking. Under the Planning and Development Act 2000, the Bord is precluded from granting permission for development that is considered to be a material contravention, except in four circumstances. These circumstances, outlined in Section 37(2)(b), are in the (i) national, strategic interest; (ii) conflicting objectives in the development plan or objectives are not clearly stated (iii) conflict with national/regional policy and section 28 guidelines; and (iv) the pattern of development and permissions granted in the vicinity since the adoption of the development plan.

10.6.11 While my opinion in relation to this matter is set out above, I do note the following. In terms of section 37(2)(b)(i), I note that the current application, which is in excess of 100 residential units, has been lodged under the strategic housing legislation and is considered to be strategic in nature. I note the definition of 'strategic housing development' pursuant to section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016 (as amended), which includes for 'the development of 100 or more houses on land zoned for residential use or for a mixture of residential and other uses'. This current proposal provides for 142 residential units. I also note the potential of the proposal to contribute to the

achievement of the Government policy to increase the delivery of housing from its current under supply set out in Rebuilding Ireland- Action Plan for Housing and Homelessness, issued in July 2016, and to facilitate the achievement of greater density and height in residential development in an urban location close to public transport and centres of employment.

10.6.12 In relation to section 37(2)(b)(ii), the applicant contends that there appear to be conflicting objectives in the Development Plan, the objectives of which are not clearly applied in relation to this development. This has been addressed above. In relation to section 37(2)(b)(iii), national policy guidance is noted. Table 8.2.3 of the operative County Development Plan sets out 'standard' parking provision as opposed to a 'maximum' provision. In this regard, I note that both the NPF and Apartment Guidelines emphasise a need to move away from universal parking standards to a more tailored performance-based approach. In this regard, I note National Policy Objective 13 of the National Planning Framework which states that "In urban areas, planning and related standards, including in particular building height and car parking will be based on performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected". In addition, National Policy Objective 27 is also noted which seeks "...to ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments, and integrating physical activity facilities for all ages".

10.6.13 In addition, sections 4.18 – 4.27 of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities 2018 provide following guidance in relation to car parking for differing locations. For 'intermediate urban locations':  
"In suburban/urban locations served by public transport or close to town centres or employment areas and particularly for housing schemes with more than 45 dwellings per hectare net (18 per acre), planning authorities must consider a reduced overall

car parking standard and apply an appropriate maximum car parking standard”.

As stated above, it is my opinion the application site could be considered to be an ‘intermediate urban location’. I do accept however that its proximity to Balally Luas stop (c. 10 minute walking distance) could also place it within the category of ‘central and/or accessible urban location’. In either case, it is clear that the Guidelines seek to encourage reductions in car parking provision for higher density developments.

### Conclusion

10.6.14 The concerns of the planning authority are acknowledged in this regard, as too are those of the third party and the Elected Members. The application site is somewhat unique, essentially comprising a Walled Garden, part of a Protected Structure complex, with very little land outside of the original garden. I am of the opinion that any development on the site faces significant constraints between balancing sustainable residential development, sustainable transport arrangements and protection/enhancement of the architectural heritage. While I note that each application is assessed on its own merits, I also consider that there are few sites that would display similar characteristics as that currently before me. Trying to achieve this balance is a difficult task and some compromises are inevitable. I consider that the proposal before me achieves this balance. The end result will be a superior development with the majority of parking omitted from the historic garden, creating a characterful area beside the converted stables with the water fountain reinstated- a peaceful environment more akin to its historic use/function without interruption from vehicles. I note section 7.3.1 of the Architectural Heritage Protection Guidelines 2011 which state that ‘it is generally recognised that the best method of conserving a historic building is to keep it in active use and ...that every effort should be made to find a solution which will allow it to be adapted to a new use without unacceptable damage to its character and special interest’. In this instance the restoration of the wall garden and stable yard will conserve these areas by keeping them in active use.

10.6.15 These aforementioned guidelines further note that a degree of compromise is often required on all sides when dealing with Protected Structures. The compromise in this instance is a significant reduction in car parking provision, well below the standards

set out in Table 8.2.3 of the operative County Development Plan. However, it is noted that other sections of the County Development Plan appear to facilitate a reduced provision and a move towards greater modal split in certain situations is encouraged. The proposed car club spaces will go some way in addressing this. More importantly, potential residents will be aware of the parking situation when deciding to move into the complex. The proposal accords with national guidance in relation to parking provision at such locations and the recognised need for a change in modal split. I have no information before me to believe that public safety would be compromised in any way as a result of the proposed parking provision. The planning authority, while recommending refusal for the proposed development based on parking provision, did not state that they considered the proposal to be a material contravention of the operative County Development Plan. The car parking ratio in the previous proposal on the lands, albeit for lesser amount of residential units, was not considered to a material contravention of the operative County Development Plan.

10.6.16 Having regard to all of the above, I consider that the proposal does not represent a material contravention of the operative County Development Plan. I have considered the report of the planning authority, which recommends a refusal of permission in relation to this matter but I do not concur. I am therefore not recommending that the Board refuse permission based on the level of parking being proposed. I consider the parking strategy, as proposed, to be acceptable in this instance. I consider that the circumstances of this site are quite unique, being located primarily within a Walled Garden, which forms part of a Protected Structure complex. In this instance, for the circumstances pertaining specifically to this particular site, I consider that the parking provision, as proposed, is acceptable. I consider that the specific circumstances of this site are such that the ratio of parking being provided should not set a precedent for other sites in the vicinity, which do not have similar circumstances in terms of architectural heritage. The reasoning behind this has been set out above, namely that the architectural heritage gain in the form of the refurbishment/restoration of the Protected Structure and the reinstatement of the Walled Garden to a function more akin to its original role outweighs the loss of car parking in this instance.

## **10.7 Drainage and Flood Risk**

10.7.1 In term of site services, a new water connection to the public mains is proposed, together with a new connection to the public sewer, both located along Wyckham Place. An Irish Water Design Submission has been submitted by the applicant, which states that based on the information provided, Irish Water has no objection to the proposal. A report was received from Irish Water, at application stage, which raises no objections to the proposal, subject to condition and states that the applicant has engaged with IW in respect of the design proposal for which they have been issued a Statement of Design Acceptance for the development. The report of the Drainage Division of the planning authority, as contained in the Chief Executive Report states that following a process of engagement by the applicant and their consultants with the Drainage Planning section, the applicant has submitted a report and drawings that generally satisfy their requirements, subject to conditions.

### Flood Risk

10.7.2 A Civil Infrastructural Report was submitted with the application, which includes for a Site Specific Flood Risk Assessment. The contents of this document appears reasonable and robust. It concludes that there are no significant flood risks to the site from pluvial, fluvial or tidal sources. The OPW Preliminary Flood Risk Assessment (PFRA) shows that the site is located outside of the Flood Risk Areas. The planning authority state that based on the information provided in the SSFRA, the conclusions contained therein are accepted and thus the proposed development is considered to be in accordance with Appendix 13 (Strategic Flood Risk Assessment) of the County Development Plan 2016, subject to condition. I consider that having regard to all of the information before me, including the guidance contained within the relevant Section 28 guidelines on flood risk management that this matter has been adequately addressed.

### Conclusion

10.7.3 I am generally satisfied in relation to the matter of drainage and flood risk. The matter was thoroughly assessed in the extant permission, ABP-304590-19 and I refer the Board to same. No issues were raised in this previous application, subject

to condition. The planning authority and Irish Water have not raised concerns in this matter. I am also satisfied in this regard, subject to condition.

## **10.8 Other Issues**

### Childcare Facility

10.8.1 The third party submission received raises concerns with regards the non-provision of a childcare facility, in an area where it is contended that demand is high. I note that the non-provision of such a facility was accepted in the previous grant of permission on the site under ABP-304590-19 for 116 units. The matter has been thoroughly assessed under section 11.10 of the Inspector's Report pertaining to that application. In this current application, which provides for an additional 26 units over and above that previously permitted, the applicant highlights that the development is made up of one and two bed units and is unlikely to generate a demand for an on-site childcare facility. They also refer to three childcare facilities, which have been granted permission in the general area recently. The submitted Crèche Assessment contends that the additional 26 units, also comprising one and two bed units, would equate to the addition of one more child in the age group 0-4 years to that approved under ABP-304590-19. They continue that the development provides for no three bed units and that the increase in numbers when compared to the permitted application can be accommodated within existing and permitted provision in the area. The planning authority is in agreement in this matter. I too am satisfied with the justification put forward in this instance.

### Part V

10.8.2 The applicant proposes to comply with the requirements of Part V of the Planning and Development Act 2000, as amended by way of transfer of 14 units, all located within Block B, comprising 8 x one bed units and 6 x two bed units. This is an increase of three units over and above that put forward under ABP-304590-19. In the previous application, all Part V units were also located within Block B. Given the relatively small-scale nature of the development proposed, together with its layout and design, I consider that they are appropriately integrated into the proposed scheme. The planning authority are satisfied in this regard and recommend a condition to deal with the matter, in the event of permission being granted for the proposed development. This is considered acceptable.

### Archaeology

10.8.3 The architectural heritage of the site is acknowledged. It was noted in the previous application, ABP-304590-19 that notwithstanding the lack of any previously identified archaeological remains on the site, the Department of Culture, Heritage and the Gaeltacht recommended that a condition regarding archaeological monitoring be attached to any grant of permission. If the Board is disposed towards a grant of permission, I recommend that a similarly worded condition be attached to any such grant.

### Tree Loss/Ecology

10.8.4 The matter of tree loss and ecology was comprehensively assessed under ABP-304590-19 (sections 11.4.26 and 11.8) and was accepted by the Board, subject to condition. A number of reports have been submitted in this regard, the contents of which appear reasonable and robust. The layout/footprint of the proposal is largely unchanged from that previously permitted. I am of the opinion that the proposed development will have no greater impact on tree loss/ecology than that previously permitted. This is in line with the conclusions of the Arboricultural Report, submitted with the application. I note that all of the Japanese Knotweed on site has been treated and the vegetation on the Protected Structure has been cleared. A Certificate of Completion, from Invas Biosecurity has been submitted with the documentation, which certifies and confirms that Japanese Knotweed has been fully eradicated within and up to the boundary of the Walled Garden site, in accordance with the provisions of a licence issued by NPWS. This is considered acceptable. The planning authority has not raised concern in this regard.

### Procedural Matters

10.8.5 The third party submission received contends that the address is incorrect on the submitted public notices. The submission received states that the address of the site has been given as Dublin 14, when it is contended that it is located in Dublin 16. I note that the address of the site in this current application is the same as that stated in ABP-304590-19. I also note that the general purpose of the public notices are to alert the public to proposed development works on the site. This has obviously occurred given that submissions were received in both applications. I do not agree

that the application should be invalidated on this matter, however I highlight the matter to the Board.

10.8.6 While some inconsistencies are noted in the submitted documentation, I consider that the matter is not so great as to warrant a refusal of permission. There is adequate information on file for me to comprehensively assess the proposed development.

## **10.9 Appropriate Assessment**

10.9.1 An 'Appropriate Assessment Screening Report', has been submitted with the application. The contents of this report appear reasonable and robust. It is noted that the site is not located within or directly adjacent to any Natura 2000 area. The proposed development is primarily contained within an area surrounded by existing stone walls within a suburban setting. There are no watercourses in the vicinity of the site.

10.9.2 The following Natura 2000 sites that are within 15km of the site and their distance from the application site are identified:

- South Dublin Bay SAC (Site Code 000210): 4.2km.
- Wicklow Mountains SAC (Site Code 002122): 5.6km.
- Knocksink Wood SAC (Site Code 000725): 7.9km.
- North Dublin Bay SAC (Site Code 000206): 9.2km.
- Glenasmole Valley SAC (Site Code 001209): 8.9km.
- Ballyman Glen SAC (Site Code 000713): 9.5km.
- Rockabill to Dalkey Island SAC (Site Code 003000): 9.9km.
- Howth Head SAC (Site Code 000202): 13.8km.
- Bray Head SAC (Site Code 000714): 13.9km.
- Baldoyle Bay SAC (Site Code 000199): 14.8km.
- South Dublin Bay and River Tolka Estuary SPA (Site Code 004024): 4.4km.
- Wicklow Mountains SPA (Site Code 004040): 5.8km.
- North Bull Island SPA (Site Code 004006): 9.4km.
- Dalkey Islands SPA (Site Code 004172): 9.7km.

- Baldoyle Bay SPA (Site Code 004016): 14.8km.

10.9.3 Qualifying Interests/Special Conservation Interests for which each European Site have been designated are outlined in Table 2 of the AA Screening Report (pages 13-22 inclusive). In terms of Conservation Objectives for each site, it is noted that the most Sites have generic conservation objectives, which seek to maintain or restore the favourable consideration condition of the habitat/species for which the Site has been selected. Detailed conservation objectives are available on [www.npws.ie](http://www.npws.ie) and I refer the Bord to same which seek to maintain and/or restore favourable conservation condition.

10.9.4 The submitted Assessment concludes that significant effects are not likely to arise, either alone or in combination with other plans or projects that will result in significant effects to the integrity of the Natura 2000 network.

#### Potential Direct/Indirect Effects

10.9.5 For each of these identified sites, it is stated that there will be no direct effects as the proposed development is located outside of the designated site. The documentation refers to a potential for an effect on Natura 2000 sites which is an indirect pathway, from the development site to the designated sites via the surface water network/foul water network to Ringsend WWTP.

#### Assessment

10.9.6 The following is noted:

- The proposed development site lies outside the boundary of a Natura 2000 site, no loss of habitat will occur. The proposed development site is located 4.2km from the nearest Natura 2000 sites, across an urban/suburban environment, with no direct connection to these conservation sites.
- The nearest Natura 2000 sites from the site are located in mountainous areas above the proposed development site or within/on the far side of the marine environment.
- There is no direct hydrological pathway from the proposed development site to a Natura 2000 site.
- In terms of foul drainage, the proposal will connect into existing public infrastructure. There is an indirect pathway via foul water network to

Ringsend WWTP. Foul water from the development will be processed in the Ringsend WWTP, where any pollutants or silt will undergo treatment and be dispersed and diluted. The indirect pathway of foul water to Ringsend WWTP will not result in a significant effect on the Natura 2000 site.

- There is an indirect pathway via the surface water network to the River Dodder and in terms of surface water drainage. The development will be served by a simple gravity drainage network, connecting to an attenuation tank. The outflow from the system will be limited to 1.5 l/s
- Flood Risk assessment concludes that there are no significant flood risks from pluvial, fluvial or tidal sources
- No Natura 2000 sites are within the zone of influence of this development. Having taken into consideration (i) the effluent discharge from the proposed development works, (ii) the distance between the proposed development site to designated conservation sites, (iii) lack of direct hydrological pathway or biodiversity corridor link to conservation sites and (iv) the dilution effect with other effluent and surface runoff, it is concluded that this development would not give rise to any significant effects to designated sites.
- There is no potential for the proposed development to contribute to any cumulative adverse impacts on any European Site
- IW have confirmed that the proposed connection to their network can be
- Construction measures are proposed to avoid all water pollution during construction and operational phases

10.9.7 Wastewater will be directed to Ringsend WWTP, which is designed to serve a population equivalent of 1.64 million, with plans to upgrade this facility. This current proposal will have an insignificant impact on this figure. The Ringsend WWTP is operating under licence from EPA and that licence is itself, the subject of its own AA. There is no evidence that water quality is impacting on these aforementioned designated sites within Dublin Bay.

10.9.8 The proposed development site lies outside the boundaries of the Natura sites identified above and therefore there will be no reduction in habitat. The project is not

directly connected with the management of any Natura 2000 site. It is concluded within the Appropriate Assessment Screening that the proposed development will have no significant impacts upon any Natura 2000 sites. Mitigation measures are referred to within the CMP, EclA and other documentation submitted. In my mind they are not mitigation measures but constitute the standard established approach to construction works on greenfield/brownfield lands. Their implementation would be necessary for a housing development on any similar site regardless of the proximity or connections to any Natura 2000 site or any intention to protect a Natura 2000 site. It would be expected that any competent developer would deploy them for works on such similar sites whether or not they were explicitly required by the terms or conditions of a planning permission. Their efficacy in preventing the risk of a deterioration in the quality of water has been demonstrated by long usage. Having regard to the 'source-pathway-receptor' model and lack of any direct entry of surface and untreated waste waters to any of the Natura 2000 sites, the use of best construction practices as an integral component of the development and the treatment of waste waters prior to discharge, the proposal either individually or in combination with other plans or projects could not be considered to have likely significant effects in view of the sites' conservation objectives.

10.9.9 I have had due regard to the screening report and data used by the applicant to carry out the screening assessment and the details available on the NPWS website in respect of the Natura 2000 sites identified as being within 15km radius of the development site, including the nature of the receiving environment and proximity to the nearest European site. I consider it is reasonable to conclude that on the basis of the information on the file which includes inter alia, AA screening report submitted by the applicant and all of the planning documentation, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on any European site, in view of the said sites' Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

## 10.10 Screening for Environmental Impact Assessment (EIA)

10.10.1 The applicant has addressed the issue of Environmental Impact Assessment (EIA) within the submitted EIA Screening Report.

10.10.2 Class (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:

- Construction of more than 500 dwelling units,
- Urban development which would involve an area greater than 2 ha in the case of a business district, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere. (In this paragraph, “business district” means a district within a city or town in which the predominant land use is retail or commercial use.)

10.10.3 The proposed development is for 142 apartments on a site c. 1.09 ha. The proposed development is considered to be sub-threshold in terms of EIA having regard to Schedule 5, Part 2, 10(b) (i) and (iv) of the Planning and Development Regulations 2001 (as amended).

10.10.4 The Screening Assessment states that having regard to the criteria specified in Schedule 7 of the Planning and Development Regulations, 2001; the context and character of the site and the receiving environment; the nature, extent, form and character of the proposed development; that an Environmental Impact Assessment of the proposed development is not required. I am satisfied that the submitted EIA Screening Report identifies and describes adequately the direct, indirect, secondary and cumulative effects of the proposed development on the environment.

10.10.5 I have assessed the proposed development having regard to the information above; to the Schedule 7A information and other information which accompanied the application, *inter alia*, Appropriate Assessment Screening, Ecological Impact Assessment and landscape details and I have therefore completed a screening assessment as set out in Appendix A.

10.10.6 The current proposal is an urban development project that would be in the built up area but not in a business district. The proposal is for 142 residential units on a stated site area of 1.0932 hectares. The proposed development would be located on brownfield lands beside existing development. The site is not designated for the

protection of a landscape, although it is acknowledged that the site is located within the Walled Garden of the Gort Mhuire, a Protected Structure.

Refurbishment/restoration works are proposed for the walls and outbuildings. The proposed development is not likely to have a significant effect on any Natura 2000 site. This has been demonstrated by the submission of an Appropriate Assessment Screening Report that concludes that there will be no impacts upon the conservation objectives of the Natura sites identified.

10.10.7 The development would result in works on zoned lands. It was accepted that an EIA was not required for 116 residential units on a similarly sized site area, under ABP-304590-19. The proposed development would be a residential use, which is a predominant land use in the vicinity. The proposed development would use the municipal water and drainage services, upon which its effects would be marginal. The site is not located within a flood risk zone. The proposed development is a planned development, which has been subjected to Strategic Environmental Assessment. The features and measures proposed by applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the proposed Construction Management Plan (CMP) are noted.

10.10.8 Having regard to: -

(a) the nature and scale of the proposed development, which is below the threshold in respect of Class 10 (i) and (iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,

(b) the location of the site on lands zoned to protect and provide for residential uses in the Dun Laoghaire County Development Plan 2016-2022, and the results of the Strategic Environmental Assessment of the plan;

(c) The existing use on the site and pattern of development in surrounding area;

(d) The planning history relating to the site

(d) The availability of mains water and wastewater services to serve the proposed development,

(e) the location of the development outside of any sensitive location specified in article 299(C)(1)(v) of the Planning and Development Regulations 2001 (as amended)

(e) The guidance set out in the "Environmental Impact Assessment (EIA) Guidance

for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003),

(f) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended), and

(g) The features and measures proposed by applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the proposed Construction Management Plan (CMP) .

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

## **11 Conclusion and Recommendation**

- 11.1 In conclusion, I consider the principle of residential development to be acceptable on this site. This has been shown in the grant of permission under ABP-304590-19. The proposal before me comprises amendments to that previously, permitted development. The key amendments relate to (i) increase in height from five storeys to six storeys (ii) increase in number of units by 26 (iii) removal of car parking from within Walled Garden (with exception of two accessible spaces). Other more minor alterations are also noted.
- 11.2 I am of the opinion that this is a zoned, serviceable site within an established suburban area where a wide range of services and facilities exist. I consider that the proposal represents an appropriate quantum of development for the site, which has the capacity to accommodate a development of the nature and scale proposed. The height and density proposed are considered appropriate.
- 11.3 The removal of the car parking from within the Walled Garden is the modification which has the potential to have greatest impact, in terms of setting of precedent. Reduced levels of parking were permitted under the original application, with this figure being reduced further in this current application. The rationale for such a reduction is particular to the circumstances of this site, namely the removal of the car parking from within the Walled Garden will allow for this area to become a more peaceful environment, more akin to its original nature and function. A compromise

has to be achieved between meeting parking requirements; sustainable development requirements and protecting/enhancing the architectural heritage of the site. I consider in this instance that the positive of an improved setting of the Walled Garden for all residents to enjoy into the future outweighs the loss of the car parking spaces from this area. Given the locational context of the site, proximate to good quality public transport in an area of high employment generation, I consider that this compromise can be achieved in this instance.

- 11.4 I have no information before me to believe that the proposal, if permitted, would put undue strain on services and facilities in the area. In my opinion, the proposal will provide a quality development, with an appropriate mix of units and an acceptable density of development catering to a range of people at varying stages of the lifecycle. I am satisfied that the proposal will not impact on the visual or residential amenities of the area, to such an extent as to warrant a refusal of permission. I am satisfied that the proposal will significantly enhance the Protected Structure by virtue of the works proposed. I do not anticipate negative impacts on the remainder of the Gort Mhuire complex.
- 11.5 I consider the proposal to be generally in compliance with both national and local policy, together with relevant section 28 ministerial guidelines. I also consider it to be in compliance with the proper planning and sustainable development of the area and having regard to all of the above, I recommend that permission is granted, subject to conditions.

## **12 Reasons and Considerations**

Having regard to the following:

- (a) The site's location within an area with a zoning objective that permits residential development in principle;
- (b) the policies and objectives in the Dún Laoghaire-Rathdown County Development Plan 2016-2022;
- (c) Architectural Heritage Protection, Guidelines for Planning Authorities 2011;
- (d) the Rebuilding Ireland Action Plan for Housing and Homelessness 2016;

- (e) the Guidelines for Sustainable Residential Developments in Urban Areas and the accompanying Urban Design Manual – a Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009;
- (f) the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities issued by the Department of the Housing, Planning and Local Government in March 2018;
- (g) the Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2013;
- (h) the Guidelines for Planning Authorities on Urban Development and Building Heights issued by the Department of Housing, Planning and Local Government in December 2018;
- (i) the planning history of the site;
- (j) the nature, scale and design of the proposed development and the availability in the area of a wide range of community, social, retail and transport infrastructure, including Dundrum Town Centre and the Luas Green Line;
- (k) the pattern of existing and permitted development in the area;
- (l) Chief Executive Opinion and associated appendices, including their recommended reason for refusal
- (m) the submissions and observations received, and
- (n) the report of the Inspector.

The Board considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would respect the existing character of the area and the architectural heritage of the site, and would be acceptable in terms of pedestrian and traffic safety and convenience. The Board considered the car parking ratio to be acceptable in this instance due to the planning gains to be achieved in terms of architectural heritage, namely the restoration/refurbishment of the Protected Structure (Ref. 1453) and the enhancement of the Walled Garden. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## **13 Recommended Draft Board Order**

### **Planning and Development Acts 2000 to 2019**

#### **Planning Authority: Dún Laoghaire Rathdown County Council**

**Application** for permission under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016, in accordance with plans and particulars, lodged with An Bord Pleanála on the 13<sup>th</sup> day of July 2020 by Walled Orchard GP3 Limited, care of McGill Planning, 45 Herbert Lane, Dublin.

#### **Proposed Development:**

A planning permission for a strategic housing development at “The Walled Garden”, Gort Mhuire, Dundrum, Dublin 14.

The proposed development comprises modifications to the previously permitted Strategic Housing Development granted on the subject site (Reg Ref ABP-304590-19) (currently under construction). The proposed development affects Protected Structures (the walls of the Walled Garden and outbuildings), which will be retained/refurbished and modified as part of the development.

The proposed alterations will provide an additional storey on each of the 4 no. permitted blocks providing a total of 26 no. additional apartments. Block A and C will now have 33 no. units each (6 additional units in each block) while Block B and D will now have 38 no. units each (7 additional units in each block). The overall development as modified will increase from 116 apartments in 4 no. 5 storey blocks to 142 no. apartments in 4 no. 6 storey blocks. The mix of units will now comprise 50 no. 1 bed apartments and 92 no. 2 bed apartments all with associated private balconies/ terraces to the north/ south/ east/ west elevations.

There will be 25 no. car parking spaces at the overall development of 142 no. apartments including 2 no. wheelchair parking spaces, 4 no. motorcycle spaces and 396 no. bicycle parking spaces including 318 no. covered and secure bicycle parking spaces accessible only by residents, 68 no. visitor cycle parking spaces in visitor accessible areas and 10 no. bicycle parking spaces which can be hired.

The development shall provide public open space at ground level and communal open space will be provided at ground floor level and at roof level. The outbuildings will be renovated and will include inter alia a concierge office, a gym and media suite. There will be pedestrian and vehicular access off Wyckham Place to the south along with a new pedestrian access gate in the western wall of the site.

The development includes for an ESB substation, plant areas, bin storage, surface water attenuation tank and all other site development works, landscaping and site services required to facilitate the proposed development.

## **Decision**

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

## **Matters Considered**

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

## **Reasons and Considerations**

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

- (a) the site's location within an area with a zoning objective that permits residential development in principle;
- (b) the policies and objectives in the Dún Laoghaire-Rathdown County Development Plan 2016-2022;
- (c) Architectural Heritage Protection, Guidelines for Planning Authorities 2011;
- (d) the Rebuilding Ireland Action Plan for Housing and Homelessness 2016;

- (e) the Guidelines for Sustainable Residential Developments in Urban Areas and the accompanying Urban Design Manual – a Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009;
- (f) the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities issued by the Department of the Housing, Planning and Local Government in March 2018;
- (g) the Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2013;
- (h) the Guidelines for Planning Authorities on Urban Development and Building Heights issued by the Department of Housing, Planning and Local Government in December 2018;
- (i) the planning history of the site;
- (j) the nature, scale and design of the proposed development and the availability in the area of a wide range of community, social, retail and transport infrastructure, including Dundrum Town Centre and the Luas Green Line;
- (k) the pattern of existing and permitted development in the area;
- (l) Chief Executive Opinion and associated appendices, including their recommended reason for refusal
- (m) the submissions and observations received, and
- (n) the report of the Inspector.

The Board considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would respect the existing character of the area and the architectural heritage of the site, and would be acceptable in terms of pedestrian and traffic safety and convenience. The Board considered the car parking ratio to be acceptable in this instance due to the planning gains achieved in terms of architectural heritage, namely the restoration/refurbishment of the Protected Structure (Ref. 1453) and the enhancement of the Walled Garden. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## **Appropriate Assessment Screening**

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

## **Environmental Impact Assessment Screening**

The Board completed an environmental impact assessment screening of the proposed development and considered that the Environmental Impact Assessment Screening Report submitted by the applicant, identifies and describes adequately the direct, indirect, secondary, and cumulative effects of the proposed development on the environment.

Having regard to: -

- (a) the nature and scale of the proposed development, which is below the threshold in respect of Class 10(i) and (iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- (b) the location of the site on lands zoned to protect and provide for residential uses in the Dun Laoghaire County Development Plan 2016-2022, and the results of the Strategic Environmental Assessment of the plan;
- (c) The existing use on the site and pattern of development in surrounding area;
- (d) The planning history relating to the site
- (d) The availability of mains water and wastewater services to serve the proposed development,
- (e) the location of the development outside of any sensitive location specified in article 299(C)(1)(v) of the Planning and Development Regulations 2001 (as

amended)

(e) The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003),

(f) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended), and

(g) The features and measures proposed by applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the proposed Construction Management Plan (CMP) .

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

## **Conditions**

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the Planning Authority, the developer shall agree such details in writing with the Planning Authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

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

2. Prior to commencement of development, a revised phasing programme for the development shall be submitted to the planning authority for agreement. This phasing programme shall ensure that no more than two of the four apartment blocks are constructed prior to the substantial completion of restoration works to the Stable Yard buildings and the perimeter walls of the Walled Garden.

**Reason:** To provide for the orderly development of the site.

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

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

4. The mitigation and monitoring measures outlined in the Ecological Impact Statement submitted with this application, including the measures for the control and eradication of Japanese Knotweed, shall be carried out in full, except where otherwise required by conditions of this permission; and the pre-construction mammal (including bat) survey shall be submitted to the Planning Authority prior to the commencement of development.

**Reason:** To protect the environment.

5. Prior to commencement of development, the developer shall provide for the following:

- (a) The appointment of a conservation architect, who shall manage, monitor and implement works on the site and ensure adequate protection of the historic fabric during those works.

- (b) The submission of details of all finishes and of all existing original features to be retained and reused where possible.

- (c) The submission of a method statement and specifications for the repair work to the Stable Yard building and the Walled Garden.

- (d) All repair/restoration works shall be carried out in accordance with best conservation practice as detailed in the application and the Architectural Heritage Protection Guidelines for Planning Authorities issued by the Department of Arts, Heritage and the Gaeltacht in October 2011. The repair/restoration works shall retain the maximum amount possible of surviving historic fabric in-situ including structural

elements, plasterwork and joinery and shall be designed to cause minimum interference to the building structure and/or fabric.

**Reason:** To ensure that the integrity of the historic structures is maintained and that the structures are protected from unnecessary damage or loss of fabric.

6. The developer shall comply with all requirements of the planning authority in relation to roads, access, lighting and parking arrangements, including facilities for the recharging of electric vehicles. In particular:
- (a) 5 No. car parking spaces shall be reserved for communal car sharing use only and shall be clearly delineated and signed for such use;
  - (b) All other car parking spaces, with the exception of visitor parking, shall be sold with the residential units and shall not be sold separately or let independently;
  - (c) The applicant shall ensure that all future occupiers shall be made aware of the restricted car parking/car storage provision and lack of car parking entitlement;
  - (d) The roads and traffic arrangements serving the site (including footpath connections and signage) shall be in accordance with the detailed requirements of the Planning Authority for such works and shall be carried out at the developer's expense;
  - (e) The roads layout including junctions, parking areas, footpaths, cyclepaths and kerbs, pedestrian crossings, car parking bay sizes and road access to the development shall comply with the requirements of the Design Manual for Urban Roads and Streets and with any requirements of the Planning Authority for such road works;
  - (f) The materials used in any roads / footpaths provided by the developer shall comply with the detailed standards of the Planning Authority for such road works;
  - (g) All of the parking areas serving the apartments shall be provided with electric vehicle charging points. Details of how it is proposed to comply with these

requirements, including details of design of, and signage for, the electrical charging points shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interests of traffic, cyclist and pedestrian safety and to protect residential amenity.

7. The site shall be landscaped in accordance with the submitted scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. The developer shall retain the services of a suitably qualified Landscape Architect throughout the life of the site development works. The approved landscaping scheme shall be implemented fully in the first planting season following completion of the development or each phase of the development and any plant materials that die or are removed within 3 years of planting shall be replaced in the first planting season thereafter.

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

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

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

9. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services. The following specific requirements shall be submitted to and agreed in writing with the planning authority prior to commencement of development, unless otherwise stated:

(a) Full details of (i) proposed green roofs including a construction and maintenance

plan; (ii) water feature

(b) Stage 2 Detailed Design Stage Storm Water Audit;

(c) Upon completion of the development, a Stage 3 Completion Stage Storm Water Audit;

(d) Details of flow restricting devices, catchpit manhole locations, drainage arrangements at entrances to each building and attenuation tank.

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

10. Proposals for the development name, apartment numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all signs, and apartment numbers, shall be provided in accordance with the agreed scheme. The proposed 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).

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

11. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of public open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

12. The construction of the development shall be managed in accordance with a Construction and Environmental Management Plan, which shall be submitted to, and

agreed in writing with the planning authority prior to commencement of development. This plan shall provide, inter alia: details and location of proposed construction compounds, details of intended construction practice for the development, including hours of working, noise and dust management measures, details of arrangements for routes for construction traffic, parking during the construction phase, and off-site disposal of construction/demolition waste.

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

13. All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site. In this regard, ducting shall be provided to facilitate the provision of broadband infrastructure within the proposed development.

**Reason:** In the interest of orderly development and the visual amenities of the area.

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

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

15. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

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

16. Construction and demolition waste shall be managed in accordance with a

construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

**Reason:** In the interest of sustainable waste management.

17. Prior to commencement of development, the developer shall engage the services of a qualified arborist as an arboricultural consultant, for the entire period of construction activity. The developer shall inform the planning authority in writing of the appointment and name of the consultant, prior to commencement of development. The consultant shall visit the site at a minimum on a monthly basis, to ensure the implementation of all of the recommendations in the tree reports and plans. To ensure the protection of trees to be retained within the site, the developer shall implement all the recommendations pertaining to tree retention, tree protection and tree works, as detailed in the in the submitted Tree Survey Report. All tree felling, surgery and remedial works shall be completed upon completion of the works. All works on retained trees shall comply with proper arboricultural techniques conforming to BS 3998: 2010 Tree Work – Recommendations. The clearance of any vegetation including trees and shrub shall be carried out outside the bird-breeding season (1 March–31 August inclusive) or as stipulated under the Wildlife Acts 1976 and 2000. The arborist shall carry out a post construction tree survey and assessment on the condition of the retained trees. A completion certificate is to be signed off by the arborist when all permitted development works are completed and in line with the recommendations of the tree report. The certificate shall be submitted to the planning authority upon completion of the works.

**Reason:** To ensure and give practical effect to the retention, protection and

sustainability of trees during and after construction of the permitted development.

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

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

(b) employ a suitably qualified archaeologist who shall carry out site testing and monitor all site investigations and other excavation works, following demolition, and

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

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

**Reason:** In order to conserve the archaeological heritage of the site and to secure the preservation and protection (in situ or by record) of any remains that may exist within the site.

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

the agreement to An Bord Pleanála for determination.

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

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

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

21. The developer shall pay to the Planning Authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the Planning Authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the Planning Authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the Planning Authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

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

the permission.

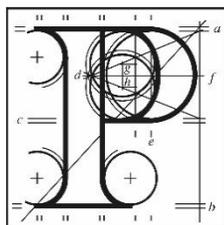
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Lorraine Dockery

Senior Planning Inspector

13<sup>th</sup> October 2020

## Appendix A: EIA Screening Form



An  
Bord  
Pleanála

### EIA - Screening Determination for Strategic Housing Development Applications

A. CASE DETAILS		
An Bord Pleanála Case Reference		ABP-307545-20
Development Summary		Modification to previously permitted ABP-304590-19 to provide an additional storey on each of the four no. permitted blocks to provide a total of 26 no. additional apartments and associated site works.
	Yes / No / N/A	
1. Has an AA screening report or NIS been submitted?	Yes	An EIA Screening Report and a Stage 1 AA Screening Report was submitted with the application

2. Is 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	
3. Have any other relevant assessments of the effects on the environment which have a significant bearing on the project been carried out pursuant to other relevant Directives – for example SEA	Yes	SEA undertaken in respect of the Dun Laoghaire County Development Plan 2016-2022

<b>B. EXAMINATION</b>	<b>Yes/ No/ Uncertain</b>	<b>Briefly describe the nature and extent and Mitigation Measures (where relevant)</b>  (having regard to the probability, magnitude (including population size affected), complexity, duration, frequency, intensity, and reversibility of impact) <b>Mitigation measures –Where relevant specify features or measures proposed by the applicant to avoid or prevent a significant effect.</b>	<b>Is this likely to result in significant effects on the environment?</b> <b>Yes/ No/ Uncertain</b>
<b>1. Characteristics of proposed development (including demolition, construction, operation, or decommissioning)</b>			

<p><b>1.1 Is the project significantly different in character or scale to the existing surrounding or environment?</b></p>	<p><b>No</b></p>	<p>The development comprises the refurbishment/restoration of a PS and construction of residential units on lands zoned residential in keeping with residential development in the vicinity.</p>	<p>No</p>
<p><b>1.2 Will construction, operation, decommissioning or demolition works cause physical changes to the locality (topography, land use, waterbodies)?</b></p>	<p><b>Yes</b></p>	<p>The proposal includes construction of a apartment complex which is not considered to be out of character with the pattern of development in the surrounding town.</p>	<p>No</p>
<p><b>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?</b></p>	<p><b>Yes</b></p>	<p>Construction materials will be typical of such urban development. The loss of natural resources or local biodiversity as a result of the development of the site are not regarded as significant in nature.</p>	<p>No</p>
<p><b>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?</b></p>	<p><b>Yes</b></p>	<p>Construction activities will require the use of potentially harmful materials, such as fuels and other such substances. Such use will be typical of construction sites. Any impacts would be local and temporary in nature and implementation of a Construction and Environmental Management Plan will satisfactorily mitigate potential impacts. No operational impacts in this regard are anticipated.</p>	<p>No</p>

<p><b>1.5 Will the project produce solid waste, release pollutants or any hazardous / toxic / noxious substances?</b></p>	<p><b>Yes</b></p>	<p>Construction activities will require the use of potentially harmful materials, such as fuels and other such substances and give rise to waste for disposal. Such use will be typical of construction sites. Noise and dust emissions during construction are likely. Such construction impacts would be local and temporary in nature and implementation of a Construction and Environmental Management Plan will satisfactorily mitigate potential impacts.</p> <p>Operational waste will be managed via a Waste Management Plan to obviate potential environmental impacts. Other significant operational impacts are not anticipated.</p>	<p><b>No</b></p>
<p><b>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?</b></p>	<p><b>No</b></p>	<p>No significant risk identified. Operation of a Construction Environmental Management Plan will satisfactorily mitigate emissions from spillages during construction. There is no direct connection from the site to waters. The operational development will connect to mains services. Surface water drainage will be separate to foul services.</p>	<p><b>No</b></p>

<p><b>1.7 Will the project cause noise and vibration or release of light, heat, energy or electromagnetic radiation?</b></p>	<p><b>Yes</b></p>	<p>Potential for construction activity to give rise to noise and vibration emissions. Such emissions will be localised, short term in nature and their impacts may be suitably mitigated by the operation of a Construction Environmental Management Plan. Management of the scheme in accordance with an agreed Management Plan will mitigate potential operational impacts.</p>	<p><b>No</b></p>
<p><b>1.8 Will there be any risks to human health, for example due to water contamination or air pollution?</b></p>	<p><b>No</b></p>	<p>Construction activity is likely to give rise to dust emissions. Such construction impacts would be temporary and localised in nature and the application of a Construction Environmental Management Plan would satisfactorily address potential impacts on human health. No significant operational impacts are anticipated.</p>	<p><b>No</b></p>
<p><b>1.9 Will there be any risk of major accidents that could affect human health or the environment?</b></p>	<p><b>No</b></p>	<p>No significant risk having regard to the nature and scale of development. Any risk arising from construction will be localised and temporary in nature. The site is not at risk of flooding. There are no Seveso / COMAH sites in the vicinity of this location.</p>	<p><b>No</b></p>

<b>1.10 Will the project affect the social environment (population, employment)</b>	<b>Yes</b>	Redevelopment of this site as proposed will result in an increase in residential units of 142 no. units which is considered commensurate with the development of a Major Centre in the Metropolitan area	<b>No</b>
<b>1.11 Is the project part of a wider large scale change that could result in cumulative effects on the environment?</b>	<b>No</b>	Stand alone development, with minor developments in the immediately surrounding area.	<b>No</b>
<b>2. Location of proposed development</b>			
<b>2.1 Is the proposed development located on, in, adjoining or have the potential to impact on any of the following:</b> <ol style="list-style-type: none"> <li>1. European site (SAC/ SPA/ pSAC/ pSPA)</li> <li>2. NHA/ pNHA</li> <li>3. Designated Nature Reserve</li> <li>4. Designated refuge for flora or fauna</li> </ol>	<b>No</b>	Proposal seeks to refurbish/restore and enhance a Protected Structure An AA Screening Assessment accompanied the application which concluded no significant adverse impact on any European Sites.	<b>No</b>

<p><b>5. Place, site or feature of ecological interest, the preservation/conservation/ protection of which is an objective of a development plan/ LAP/ draft plan or variation of a plan</b></p>			
<p><b>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?</b></p>	<p><b>No</b></p>	<p>No such uses on the site and no impacts on such species are anticipated.</p>	<p>No</p>
<p><b>2.3 Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?</b></p>	<p><b>No</b></p>	<p>The site forms part of a protected structure. The design and layout of the scheme considers all these built environment issues and mitigation measures are in place to address concerns.</p>	<p>No</p>
<p><b>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?</b></p>	<p><b>No</b></p>	<p>There are no areas in the immediate vicinity which contain important resources.</p>	<p>No</p>

<p><b>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?</b></p>	<p><b>No</b></p>	<p>There are no connections to watercourses in the area. The development will implement SUDS measures to control surface water run-off. The site is not at risk of flooding.</p>	
<p><b>2.6 Is the location susceptible to subsidence, landslides or erosion?</b></p>	<p><b>No</b></p>	<p>There is no evidence in the submitted documentation that the lands are susceptible to lands slides or erosion and the topography of the area is flat.</p>	<p>No</p>
<p><b>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?</b></p>	<p><b>No</b></p>	<p>The site is served by a local urban road network.</p>	<p>No</p>
<p><b>2.8 Are there existing sensitive land uses or community facilities (such as hospitals, schools etc) which could be affected by the project?</b></p>	<p><b>Yes</b></p>	<p>There is no existing sensitive land uses or substantial community uses which could be affected by the project.</p>	<p>No</p>

<b>3. Any other factors that should be considered which could lead to environmental impacts</b>			
<b>3.1 Cumulative Effects: Could this project together with existing and/or approved development result in cumulative effects during the construction/ operation phase?</b>	<b>No</b>	No developments have been identified in the vicinity which would give rise to significant cumulative environmental effects.	<b>No</b>
<b>3.2 Transboundary Effects: Is the project likely to lead to transboundary effects?</b>	<b>No</b>	No trans boundary considerations arise	<b>No</b>
<b>3.3 Are there any other relevant considerations?</b>	<b>No</b>		<b>No</b>

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

## D. MAIN REASONS AND CONSIDERATIONS

Having regard to: -

- (a) the nature and scale of the proposed development, which is below the threshold in respect of Class 109i) and (iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- (b) the location of the site on lands zoned to protect and provide for residential uses in the Dun Laoghaire County Development Plan 2016-2022, and the results of the Strategic Environmental Assessment of the plan;
- (c) The existing use on the site and pattern of development in surrounding area;
- (d) The planning history relating to the site
- (d) The availability of mains water and wastewater services to serve the proposed development,
- (e) the location of the development outside of any sensitive location specified in article 299(C)(1)(v) of the Planning and Development Regulations 2001 (as amended)
- (e) The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003),
- (f) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended), and
- (g) The features and measures proposed by applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the proposed Construction Management Plan (CMP) .

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

Inspector: \_\_\_\_\_ Lorraine Dockery

Date: \_\_\_\_\_ 13/10/2020

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