



An
Bord
Pleanála

Inspector's Report ABP 303196-18.

Development	Residential development comprising 32 no. units and demolition of two-storey house, outbuildings and shed.
Location	Mount Eagle, Kilgobbin Road, Sandyford, Co. Dublin.
Planning Authority	Dún Laoghaire-Rathdown Co. Council
Planning Authority Reg. Ref.	D18A/0609
Applicant	Floramount Ltd.
Type of Application	Permission
Planning Authority Decision	Grant permission
Type of Appeal	First and Third Party
Appellants	(1) Raymond & Eimear MacEntee (2) Grace & Gerard Madigan (3) Leopardstown Heights Residents Association (4) Karolina & Wojtek Sikorski (5) Brian & Patricia McCabe (6) Romy & Brendan Moloney

(7) Helen & Ronan Hayes

(8) Floramount Ltd.

Observers

Simon & Jennifer Maguire

Date of Site Inspection

29/3/19

Inspector

Siobhan Carroll

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1.0 Site Location and Description

- 1.1. The proposed development site is located at Mount Eagle, Kilgobbin Road, Sandyford, Co. Dublin, approximately 0.5km south of Junction 14 on the M50 Motorway. It is situated on the eastern side of Kilgobbin Road. Kilgobbin Road extends from Stepside village for circa 2km to the junction of Hillcrest Road, Leopardstown Road and Bearna Way.
- 1.2. The surrounding area is characterised by residential development. The housing along Kilgobbin Road in the vicinity of the site comprises large detached properties on plots with a depth of circa 70m. The Mount Eagle housing estate lies immediately to the north and east of the site. It comprises a mix of semi-detached two-storey properties.
- 1.3. The site itself has a stated site area of 0.44 hectares, is generally rectangular in shape. It contains an unoccupied two-storey dwelling situated in the north-western corner of the site. The roadside boundary is formed by a capped stone-faced wall. There is a recessed gated entrance to the south-eastern corner of the site.
- 1.4. Kilgobbin Road is served by the no. 44, no. 47 and no. 118 bus routes. The site is located 700m from Glencairn Luas Station and 1km from The Gallops Luas Station.

2.0 Proposed Development

- 2.1. Permission is sought for a residential scheme comprising 32 no. units. Features of the scheme include;
 - Demolition of existing two-storey dwelling house and ancillary outbuildings and sheds,
 - Residential development of 32 units in three blocks consisting of:
 - Block A - 3 storey block containing 2 x 1 bed; 2 x 2 bed and 4 x 3 bed duplex units;
 - Block B - 3 storey block containing 1 x 1 bed; 2 x 2 bed; 2 x 3 bed and 1 x 4 bed duplex units;
 - Block C - 3, part 4 storey apartment block consisting of 18 x 2 bedroom apartments;

- Ancillary site works including parking for 37 cars, 40 no. bicycle racks, communal bin stores,
- Main vehicle access from Kilgobbin Road.

3.0 Planning Authority Decision

3.1. Decision

Permission was granted subject to 36 no. conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Report dated 16/8/19 the Planning Authority sought further information in relation to the following;

- 1) Provide revised drawings indicating compliance with the internal storage space standards.
- 2) Address potential overbearing impact of Apartment Block C on adjoining property to the north-west 'Red Cottage'.
- 3) Address concerns relating to potential overshadowing to properties on Mount Eagle View.
- 4) Review proposals for green roofs with cross section drawings and proposed access arrangements.
- 5) Clarify the existing function of the ponds on site and consider if they can be retained for additional SuDs measures.
- 6) The applicant was requested to agree with the Council the run-off coefficient and clarify where the calculation is used and where it is omitted.
- 7) Submit details indicating parking/driveways/hardstanding areas in accordance with Section 8.2.4.9 of the Development Plan.
- 8) Provide a detailed assessment report demonstrating appropriate consideration given the proposed location of the new vehicular entrance in

accordance with 'Section 5.35 Staggered Junctions' of the TII of 'Geometric Design of Junctions.

- 9) Submit detailed plan layout showing future access road to adjacent site to the east to accommodate future development, ensure permeability and rationalise the number and type of accesses onto Kilgobbin Road.
- 10) Submit drawings indicating front boundary treatment to be a maximum height of 1.1m for a minimum distance of 2m either side of the new vehicular entrance.
- 11) Submit plans and elevations indicating ramped entry treatment for pedestrians and cyclist priority at the proposed new vehicular entrance in accordance with standards set out in Section 4.26 of DMURS.
- 12) Submit details of stop road markings and stop sign and proposed vehicular entrance.
- 13) Indicate 3 no. car parking spaces for visitor parking and 2 no. spaces for disabled parking.
- 14) Submit plans for wheel stoppers for footpaths.
- 15) Provide details that residential car parking spaces are constructed to be capable of accommodating future electric charging points for electrically operated vehicles.
- 16) Submit drawings indicating bicycle spaces.
- 17) Submit drawings indicating motorcycle parking spaces with the development in accordance with Section 8.2.4.8 – Motorcycle Parking in the Development Plan.
- 18) Submit details of proposed street lighting and a Lux Contour diagram showing all spill light and Lux levels affecting public roads adjoining residential properties.
- 19) Submit detailed Construction Management Plan addressing traffic, staff parking, measures to minimise/eliminate nuisance caused by noise and dust.
- 20) Submit a detailed Tree Survey & Arboricultural Impact Assessment.

21) Provide revised landscaping proposals in accordance with requirements of the Parks Section.

22) Submit plans for a suitable play area in line with National Children's Play Policy 'Ready Steady Play'.

23) Clarify the proposed treatments for the northern and eastern boundaries.

Report dated 20/11/18: The Planning Authority was satisfied that the applicant addressed all the issues raised in the further information request and permission was granted.

3.2.2. Other Technical Reports

Drainage Planning – No objection subject to the attachment of a condition regarding details of proposed green roofs to be submitted.

Transportation Planning – No objection subject to conditions

Parks – No objection subject to conditions

Housing Section – No objection subject to the attachment of a condition regarding the applicant/developer entering into an agreement in accordance with Part V of the Planning and Development Act, as amended.

3.3. Prescribed Bodies

Irish Water – No objections

3.4. Third Party Observations

3.4.1. The Planning Authority received 15 no. submissions/observations in relation to the application. The main issues raised are similar to those set out in the third party appeals.

4.0 Planning History

- None applicable

5.0 Policy Context

5.1. Project Ireland 2040 - National Planning Framework

- 5.1.1. The NPF includes a Chapter, No. 6 entitled 'People, Homes and Communities'. It sets out that place is intrinsic to achieving good quality of life. National Policy Objective 33 seeks to "prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location".
- 5.1.2. National Policy Objective 35 seeks "to increase residential density in settlements, through a range of measures including restrictions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights".
- 5.1.3. National Planning Objective 13 also provides that "In urban areas, planning and related standards, including in particular 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".

5.2. Section 28 Ministerial Guidelines

- 5.2.1. The following is a list of section 28 Ministerial Guidelines considered of relevance to the proposed development. Specific policies and objectives are referenced within the assessment where appropriate.
- 'Urban Development and Building Heights' Guidelines for Planning Authorities
 - 'Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas' (including the associated 'Urban Design Manual')
 - 'Design Manual for Urban Roads and Streets' (DMURS)
 - 'The Planning System and Flood Risk Management' (including the associated 'Technical Appendices')

- ‘Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities’

5.3. **Dún Laoghaire Rathdown County Development Plan, 2016-2022:**

- 5.3.1. Land Use Zoning: The proposed development site is located in an area zoned as ‘A’ with the stated land use zoning objective ‘To protect and-or improve residential amenity’.
- 5.3.2. Chapter 8 – Principle of Development
- 5.3.3. Section 8.2.3 – refers to Residential Development

5.4. **Environmental Impact Assessment (EIA)**

- 5.4.1. Having regard to the nature and scale of the proposed development and the nature of the receiving environment there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

5.5. **Natural Heritage Designations**

- 5.5.1. The following Natura 2000 sites are located in the general vicinity of the proposed development site:
 - The Wicklow Mountains Special Area of Conservation (Site Code: 002122), approximately 5.5km southwest of the site
 - The Wicklow Mountains Special Protection Area (Site Code: 004040), approximately 5.6km southwest of the site.
 - The South Dublin Bay and River Tolka Estuary Special Protection Area (Site Code: 004024), approximately 4.7km north-east of the site.
 - The South Dublin Bay Special Area of Conservation (Site Code: 000210), approximately 4.7km north-east of the site.
 - The Rockabill to Dalkey Island Special Area of Conservation (Site Code: 003000), approximately 8.5km east of the site.

- The Dalkey Islands Special Protection Area (Site Code: 004172), approximately 8.5km east of the site.

6.0 The Appeal

6.1. Grounds of Appeal

Third Party Appeals

The Board received third party appeals from the following; (1) Raymond & Eimear MacEntee (2) Grace & Gerard Madigan (3) Leopardstown Heights Residents Association (4) Karolina & Wojtek Sikorski (5) Brian & Patricia McCabe (6) Romy & Brendan Moloney (7) Helen & Ronan Hayes. The main issues raised can be summarised as follows;

(1) Raymond & Eimear MacEntee

- The proposed development would be out of character with the surrounding development which is a mix of detached/semi-detached two-storey and single storey dwellings.
- The appellants stated that the proposed blocks A and B would cause overlooking and overshadowing of their rear garden, dwelling and pre-school.
- The proposed development would negatively impact upon the visual amenities of the area.
- The appellants consider that the proposed development would have an undue intrusive impact upon their residential amenities.
- The decision of the Planning Authority to refuse permission under Reg. Ref. D18A/0929 for a scheme of 19 no. apartments and 7 no. houses on a 0.6 hectare site in the vicinity is cited. The appellants consider the proposed scheme is comparable and should be similarly refused.
- Noise and dust generated during construction would negatively impact upon the appellants pre-school.

- The proposed hours of operation starting at 8am would negatively impact the pre-school and the appellants family. It is requested that the construction hours begin from 9.15am after pre-school starts.
- Granite is a feature of the topography of the area. The appellants have concerns that the presence of rock on site could impact construction and cause structural damage to their property and 'Red Cottage' the closest building to the site.
- It is concluded that the proposed development is not in accordance with the proper planning and sustainable development of the area and that permission should be refused.

(2) Grace & Gerard Madigan

- The appellants state that the rear of Block C would be located 4.8m from their boundary wall. They submit that the proposed scheme would have a detrimental impact on their privacy.
- The proposed development which ranges in height from three to four storeys would have an unacceptable overbearing impact.
- The height, scale and proximity of the proposed development to the appellants boundary would cause overshadowing and overlooking.
- The proximity of the proposed scheme would cause overlooking from balconies and noise generated from residents would have a serious impact upon existing residential amenities.
- The appellants note that the proposed bin store would be located alongside their rear boundary wall. It is requested that the bin store be relocated centrally within the development.
- Concern is raised that the existing stone boundary wall on the western side of the site which it is proposed to retain, would be impacted during construction.
- The presence of shallow rock on site is noted. The appellants stated there is potential risk to their property from digging the foundations, the location of the attenuation tank and possible flooding.
- The condition attached by the Planning Authority specifies the hours of operation between 8am and 7pm Monday – Friday and 8am to 2pm on

Saturday. The appellants consider that those hours are excessive and request that they be reduced.

- The proposed scheme provides 37 no. car parking spaces with 32 no. one bedroom units and 2 no. three bedroom units proposed. The appellants consider the majority of properties will have more than one car and there is no overspill parking with the scheme. This will result in parking on the footpath and cycle path along Kilgobbin Road. Spaces no's 27-30 located on the spine road are considered of poor design. Condition no. 6 attached by the Planning Authority removed spaces 32 and 32 in the interest of amenity of open space. Spaces 29 and 30 are located close to the entrance and are located close to the entrance and are considered potentially dangerous.
- It is concluded that the proposed development would generate additional on-street parking within surrounding housing estates including Mount Eagle Estate.
- Mount Eagle House and the orchard on site appear on the 1837 – 1842 OSI historical map. The house is considered of historical and architectural importance.

(3) Leopardstown Heights Residents Association

- It is submitted that the development would increase traffic congestion and give rise to traffic hazard in the area. Leopardstown Heights housing estate located to the north of the site experiences traffic congestion caused by non-residents parking and using the Glencairn Luas Station.
- The proposed development would further exacerbate the parking congestion in the area. It is considered that there is a shortfall of car parking spaces proposed. The scheme granted by Dún Laoghaire-Rathdown Co. Council provides for only 35 no. car parking spaces. It is submitted that this is a shortfall of 15 no. car parking spaces or 30% of the required parking spaces relative to the Development Plan requirements.
- It is considered that the level of car parking is unacceptable despite the sites proximity to the Luas. Residents state that due to continued

development they have to let two or three trams pass before getting a seat at peak times due to overcrowding.

- Reference is made to another proposed scheme at Rocklawn in the vicinity of the Leopardstown Heights estate, Reg. Ref. D18A/0314. The applicants in that case sought 58 no. car parking spaces where the Development Plan required 74 no. car parking spaces. The proposed reduction in car parking was not accepted by the Transportation Planning Section. It is submitted that the under provision of car parking is similar in percentage terms.
- The cumulative impact of under provision of parking is highlighted as it would lead to ever increased on-street car parking demand in Leopardstown Heights.
- The proposed height of the development would cause overlooking and would have a serious negative impact upon the visual amenities of the area. The setback of block C from the western boundary and the inclusion of a condition requiring windows on the western elevation to have opaque glass is noted by the appellants. Notwithstanding this provision residents are concerned that the development would result in overlooking of back gardens from proposed balconies and terraces.
- The site could be characterised as an infill site. Section 8.2.3.4 of the Development Plan refers to infill development and states, "*New infill development shall respect the height and massing of existing residential units*". It is submitted that the proposed development fails to meet this and it is significantly taller and denser at circa 70 units per hectare than the surrounding development.
- It is submitted that the proposed development would seriously undermine the character and setting of the area and that the development is inconsistent with the stated zoning objective of the site "*to protect and or improve residential amenity*".
- The scale of the proposed development is considered excessive for the site. It is suggested that it should be scaled back to reflect the pattern of development in the immediate vicinity of the site. The provisions of Policy

RES3 of the Development Plan which refers to residential density are cited, *“It is Council policy to promote higher residential densities, provided that proposals ensure a balance between the reasonable protection of existing residential amenities and the established character of areas”*.

- A reduction in density is considered appropriate as the site is surrounded by lower density development, the parking provided is below development plan standards and the proposed development would require the removal of mature category A and category B trees.
- It is noted that there is underlying granite bedrock in the general vicinity of the sit and it is suggested that there could be granite deposits on site.
- It is requested that permission be refused. If the Board decide to grant permission the appellants request that appropriate conditions be attached to protect residential amenity and to avoid or minimise further parking issues.

(4) Karolina & Wojtek Sikorski

- The side wall of duplex block A would be located 2m from the appellants rear boundary wall. The building has a height of 11.2m. The appellants consider that due to the proposed height of the building and proximity to their property that it would cause overshadowing and overbearing impact.
- The location and design of the proposed scheme would result in a loss of privacy and overlooking.
- The scheme would have a detrimental impact upon the appellants residential amenities. The design is out of character with the design and scale of properties in the vicinity on Kilgobbin Road and Leopardstown Heights estate, which are typically two-storey semi-detached houses and bungalows.
- The appellants note the character of the existing property on site Mount Eagle House and orchard which dates back to the 1830's. The appellants consider the property is historically significant and should be placed on the Record of Protected Structures.

- The proposed bin store location is close to the appellants boundary wall and would pose a risk to health and safety.
- The proposed scheme would further add to congestion of passengers on the Luas.
- The proposed development would result in a loss of an area available for wildlife. The appellants have raised concern at the proposed removal of an A graded Cordyline.
- The construction works could impact upon the stability of the appellants property particularly the boundary wall located on the north-western side of the site.
- There is insufficient car parking proposed to serve the development. This will lead to overspill car parking on the cycle path on Kilgobbin Road and within Leopardstown Heights estate.
- The proposed development would have an adverse impact on property values.
- It is requested that the Board refuse permission.

(5) Brian & Patricia McCabe

- The appellants submit that the proposed development would have a significant negative impact on the residential amenities of their property.
- Due to the scale, bulk, height and location of the proposed development it will have a significant visual impact upon their property.
- The proposed development would result in a loss of privacy due to overlooking of the rear of their property.
- The proposed development would have an overbearing impact due to the location of the duplex blocks A & B to the rear of Mount Eagle Housing estate.
- The proposed development would give rise to significant overshadowing. It is clear from the shadow analysis that the rear gardens of no's 79, 81 & 83 would be significantly affected by the additional shadowing.
- The proposed development would result in overshadowing and loss of light particularly in the winter months.

- The proposed development would have an adverse impact on property values.
- The proposed development would result in the loss of trees and hedges. It is proposed to remove 80% of all mature trees on the site and replace them. The appellants note two mature Ash trees.
- The proposed car parking is inadequate to serve the scheme notwithstanding the proximity of the Luas Station at Glencairn and the bus routes on Kilgobbin Road.
- The proposed scheme would lead to increased traffic movements onto Kilgobbin Road which would cause congestion and increase potential traffic hazard.
- Concern is raised in relation to noise and disturbance which would occur during construction.
- The granting of permission would set a precedent for other similar development in the vicinity of Mount Eagle estate.
- The appellants request that the Bord refuse permission.

(6) Romy & Brendan Moloney

- The proposed height and scale of the development is out of character with the surrounding area. It would set a precedent for other similar development in the area.
- The proposed development would result in the loss of privacy due to overlooking. The appellants state that Block A and Block B would be located less than 11m from their home.
- The proposed scheme would result in a loss of daylight and cause overshadowing of their rear garden. They refer to the shadowing which would occur at the spring equinox.
- There is a large Ash tree located on the boundary between the appellants property and the appeal site. The appellants request that the tree be retained.

(7) Helen & Ronan Hayes

- The proposed development would cause a loss of privacy due to overlooking from the three-storey dwellings into their garden.
- The development of the scheme would result in a loss of sunlight and that it would cause shadowing of their rear garden.
- The development would result in a loss of enjoyment of their home and garden.
- The appellants note that the extension to the rear of their property is not included on the drawings.
- The development would result in loss of property value.
- The development would place additional pressure on the public transport in the area, particularly the Luas.
- The removal of the boundary wall on site and its replacement could impact the appellants shed which directly adjoins the boundary.
- The proposed development would result in increased car parking in Mount Eagle View.

6.2. First party appeal

6.2.1. A first party appeal was made by the applicant against condition no. 8 (i) of the permission granted under Reg. Ref. D18A/0609.

- Condition no. 8 (i) states;
“Prior to the commencement of development and related tree felling and construction activities the applicant shall lodge a Tree Bond with the Planning Authority, as security for tree protection and a deterrent to wilful or accidental damages during construction. The Bond shall be based on a notional estimate of the combined value–amenity and ecosystems services of retained trees, taking account of the percentage tree loss(es) due to direct impacts on healthy trees. The minimum value of tree Bond shall be €85,000.00.”

- The tree bond amount is considered to be excessive. A detailed tree survey and condition report was carried out. The report identified 4 no. trees to be retained. These trees were incorporated into the overall layout. On the basis of 4 no. trees to be retained, the amount of €85,000.00 is considered extremely excessive as it would represent over €21,000.00 for each tree.
- The method of calculating the amount of the Tree Bond at €85,000.00 has not been indicated in the Planning Authority documents. There is no reference to the computation of the amount.
- Previous applications confirmed by the Bord with tree bonds which are considered more proportionate to the scale of development are PL06D.243091 (Reg. Ref. D13A/0683) which has 22 no. trees and a bond of €50,000.00. Also, PL06D.245911 (Reg. Ref. D15A/0431) which has 3 no. mature trees and a bond of €5,000.00. The amount of the tree bond is clearly inconsistent and excessive in comparison to the cited examples.
- The normal method monetary evaluation is the 'Helliwel' system, (Helliwel, R: Visual amenity valuation of trees and woodlands, Guidance Note 4, Arboricultural Association, 2008. The system does not appear to be used in this case.
- Accordingly, the applicant submits to the Bord that the amount of the tree bond be altered to a reasonable and appropriate figure for such development.

6.2.2. First party submission referring to first party appeal in response to the Planning Authority submission.

- The applicant disagrees with the assessment of the Parks Section. As stated in the Arboricultural Assessment submitted with the application the 2 no.

veteran ash trees to be retained are classified as Grade C which are trees of low quality and value.

- It is submitted that there is nothing in the Arboricultural Assessment to support the Planning Authority's statement that the four remaining trees are of '*high aesthetic, ecological and cultural importance.*'
- It is also stated that there is nothing in the Arboricultural Assessment to support the view that the trees are of national importance. It is noted that none of the trees have Tree Preservation Orders.
- The submission from the Planning Authority does not provide an explanation of the method of monetary evaluation used. It remains the applicant's stance that the amount of the Tree Bond is excessive and disproportionate given the proposal to retain only four trees, two of which are Grade C.

6.3. Applicant Response

Appeal response dated 21st of January 2019;

- The submission is a response to the appeal submitted by Raymond and Eimear Mac Entee.
- In relation to matters of noise and disruption the applicant confirm that the developer will carry out the works in a manner that will minimise disruption to neighbours.
- The appellants submit that the proposed development is out of character with existing development in the area. The housing in the area including Mount Eagle estate is dominated by two-storey semi-detached dwellings. However, national guidance seeks to provide suburban development of four-storeys above. The scale of the proposal at three storeys to the rear is sensitive to adjoining properties on Mount Eagle View and Mount Eagle Rise.
- Regarding the issue of overlooking the distance from the appellants rear boundary to their first floor is circa 26m and from the ground floor extension is circa 20m. There is a separation distance of 10.3m from Block A to the shared boundary therefore the separation distance between the buildings is generous and the houses will not be unduly overlooked.

- In relation to the concerns that persons can look into their rear garden, it is submitted that urban gardens are not private spaces and that the appellant's rear garden is overlooked by existing neighbouring properties.
- The appellants state that circa 28 no. windows above ground level would face their property, this suggested level of overlooking is disproportionate to the actual proposal. There are 4 no. dwellings in Block A with windows above ground floor which are set back 10m from the boundary. The pre-school building located at the boundary significantly reduces the potential for overlooking of the garden.
- The balconies referred to by the appellants are recessed within the main building line and are appropriately setback from the boundary.
- Regarding the issue of overshadowing, based on the objective analysis of the shadow diagrams the concerns cannot be sustained. The proposal does not cast any additional shadow onto the dwelling or private amenity area on the spring equinox which is the accepted date for assessment of impact.
- In relation to the pre-school building the appellants state that they rely on a south facing velux window. The shadow diagrams show that the southern plane of the roof becomes partially shadowed between 12 noon and 3pm on the spring equinox. The sessional hours of the pre-school are 9am-12.30pm and therefore there will be no shadowing of the rooflight during operational hours.
- The appellants concerns refer to overlooking, overshadowing and visual impact, having regard to the prevailing planning policy context and objective analysis, it is submitted that these concerns cannot be sustained.

Appeal response dated 25th of January 2019;

- A number of the appellants requested that the site be developed at a low density which they consider is more in keeping with the character of the area. The housing in the area is dominated by a mix of mono-type two-storey semi-detached dwellings. However, to develop at the prevailing density would be an inefficient use of zoned and serviced residential land. The "Urban Development and Building Heights Guidelines", 2018, support the

development of four storey and higher in suburban locations. The proposed height and scale at three-storeys is considered sensitive to adjoining property in Mount Eagle Estate.

- The matter of overlooking and loss of privacy is raised in a number of appeals. It is submitted that urban gardens are not private space and that every garden is overlooked by adjacent properties. The question is whether an infill development would result in additional undue overlooking.
- The rear gardens at Mount Eagle View are circa 20m long depending on the size of ground floor extensions. The separation distances between existing and proposed buildings is in excess of 30m. Therefore, the housing will not be unduly overlooked and concerns about loss of privacy cannot be sustained.
- Regarding the proposed first floor balconies on the northern elevation of Blocks A and B, they are designed to be recessed and will not extend beyond the main building line. Only ground floor terraces serving one bedroom units extend beyond the building line to the north.
- Overlooking of houses in Mount Eagle Rise was raised in two appeals. The relationship between Blocks A & C and the dwellings at Mount Eagle Rise was carefully considered by the design team. The western elevations have minimal glazing above ground floor and in Block C there are a small number of high level windows at 1st, 2nd and 3rd floor levels. Also, the western ends of balconies/terraces in Block C have obscure glass screens to mitigate overlooking towards Mount Eagle Rise.
- The western elevations of Block A only has one small window serving an ensuite above ground floor. The western ends of the south facing terrace and balcony serving duplex 2 will have obscure glass screens to mitigate overlooking of Mount Eagle Rise. A revised western elevation of Block A is indicated on figure 6. Condition no. 4 of the Planning Authority grant of permission requires all windows on the west elevation excluding the ground floor be fitted with opaque or frosted glass. This condition is acceptable to the applicant. The design and mitigation measures proposed will prevent any undue overlooking of houses.

- Regarding the issue of overshadowing the Shadow Path Diagrams submitted with the application are representative of the equinox. They indicate that there will be very limited shadow impact on adjoining gardens and all parameters are within established guidelines.
- A number of the appeals express concern that the three-storey buildings will have an overbearing impact on their houses. It is submitted that the three-storey buildings are an appropriate scale and are sufficiently set back from the boundary. The proposed four-storey apartment building addresses the public road. Concerns regarding overbearing impact on Red Cottage were addressed at further information stage.
- Regarding pressure on public transport, the provision of additional capacity on public transport networks is a matter for Transport Infrastructure Ireland.
- Regarding car parking provision the grounds of appeal are misguided in concluding there is a shortfall compared to Development Plan requirements. Car parking provision was assessed by the Council's Roads Department as satisfactory for the location which is well served by public transport.
- In relation to the matter of potential traffic hazard the impact on the roads network was assessed by the DBFL Consultant Engineers. They concluded that the peak traffic movements will have a negligible impact on the road network. Furthermore, the proposal was comprehensively assessed by the Council's Roads Section, they sought further information on certain technical matters and following the submission of a response to the further information, they were satisfied with the proposals.
- The loss of trees is raised in an appeal specifically two ash trees on the boundary of the site. It is proposed to retain the two veteran ash trees at the northern boundary wall and two category A trees in the south-eastern corner. The remaining trees were assessed as low quality and will be removed.
- The boundary treatment is raised in a number of the appeals. Following detailed survey all sound boundary walls will be retained and increased in height to circa 2m.

- It is requested that planning permission be granted subject to the attachment of appropriate conditions.

6.4. Planning Authority Response

- Regarding the tree bond it is stated that given the extent of high value trees BS 5837 Category A & B tree loss that the remaining 4 no. trees on site are vital to the development. The 4no. trees on site are considered of high aesthetic, ecological and cultural importance in the arborist report. The works required to build the development significantly encroach on the root protection area and if significant care is not take during construction the trees will be significantly affected. It is the opinion of the Parks Section that these trees are of national importance and given the extent of construction works will encroach onto the trees a tree bond of €85,000.00 is deemed appropriate.
- In relation overlooking concerns, Block A at the closest point is 2.027m from the rear boundary with No. 3A Mount Eagle Rise. The corner of the building is over 27m from the rear elevation of no. 3A. Due to the direction of the rear elevation there will not be any significant overlooking of adjacent properties.
- Given the distances between Block A & Block B from surrounding residential properties the Blocks will not appear overbearing. Regarding apartment Block C the Planning Authority had concerns relating to the overbearing nature of the block and the impact on the adjoining property to the north-west 'Red Cottage'. In response to the further information request apartment Block C was relocated 5m from the shared boundary with 'Red Cottage'. This has addressed the matter satisfactorily.
- A number of appellants raised concern at potential overlooking from Block C on adjoining properties to the north-west. The windows to the east elevation are high level with obscure glazing proposed to the sides of balconies. Therefore, it is considered that there will be no significant overlooking of properties to the north-west. The Planning Authority attached a condition requiring that the windows be glazed with obscure glazing.
- The Planning Authority had concerns in relation to potential overshadowing of properties on Mount Eagle View as indicated on the Spring Equinox shadow

analysis. As part of the further information the applicant was required to submit revised drawings indicating any mitigation measures required. In response the applicant stated that the rear gardens will receive at least six hours of sunlight on 21st of March. The response stated that while there is minimal overshadowing of the properties on Mount Eagle View all gardens would receive a substantially greater amount of sunshine than the recommendations set out in BRE Guideline Documents. It is considered that the proposed development would not result in seriously injurious overshadowing of adjacent properties.

- The treatment of the boundary walls was raised in a number of the appeals. The Planning Authority attached a condition requiring that the existing stone perimeter wall be retained and repaired and that details of the proposed boundary treatment for the remaining boundaries be submitted to the Planning Authority for written agreement.
- The scheme provides 37 no. car parking spaces to serve 32 no. apartment units. The Transportation Section considers this reduction in Development Plan car parking standards appropriate at this location. The scheme is in accordance with the Design Standards for New Apartments. The site is located 0.8km to the closest Luas Stop at Glencairn and 1km to the Gallops Luas Stop. Therefore, the proposed car parking is considered adequate.
- The proposal for 32 residential units on the site will contribute to one of the Strategic Outcomes of the National Planning Framework to provide compact growth. It is considered that the proposed development complies with the Guidelines on Sustainable Urban Housing: Design Standards for New Apartments and subject to conditions it complies with the policies and objectives of the Development Plan.

6.5. Observations

An observation to the appeals was submitted by Simon & Jennifer Maguire. The main issues raised concern the following;

- Concern is raised regarding potential overlooking from first floor balconies and living rooms and from living rooms within the proposed duplex units.

- The observers refer to a previous application for a residential development at Rocklawn, Leopardstown Road, Dublin 18. They note that the Planning Authority refused permission under Reg. Ref. D18A/0314 for 42 no. residential units. The refusal issued by the Planning Authority stated that the development would seriously injure the amenities of the property Carraig by reason of overshadowing, overlooking and overbearing. The observers consider that the proposed scheme is comparable.
- They consider that the proposed development would set a precedent for similar development on the properties to the south-east along Kilgobbin Road.
- It is contended that the setback distance is not sufficient to prevent overlooking of properties on Mount Eagle View.
- It is submitted that the proposed development is contrary to the proper planning and sustainable development of the area.

6.6. Further Responses

- 6.6.1. Further submissions have been received from Helen & Ronan Hayes, Raymond & Eimear Mac Entee, Brian & Patricia McCabe, Leopardstown Heights Residents Association, Karolina & Wojtek Sikorski and Grace & Gerard Madigan. The contents of the submissions are noted, they do not raise any new material planning issues.

7.0 Assessment

I consider that the main planning issues in the assessment of the proposed development can be dealt with under the following headings:

- Design and impact upon residential amenity
- Access and traffic
- Tree Bond
- Appropriate Assessment
- Other Issues

7.1. Design and impact upon residential amenity

- 7.1.1. The lands in question are zoned 'Objective A' – to protect and/or improve residential amenity. The proposal is to demolish a dwelling and construct 32 no. apartments in three separate blocks a four-storey building to the front of the site and 2 no. three-storey duplex blocks to the rear of the site. The existing dwelling subject of this application 'Mount Eagle' was built circa 1830's, however the property is not a protected structure. The subject dwelling which is two-storey is not of significant architectural merit. Accordingly, I consider in principle that demolition of the dwelling would be acceptable in this case. The site has an area of 0.44 hectares the proposed density would be equivalent to 72 units per hectare.
- 7.1.2. The third party appeals raise concerns about the scale, density and overall height of the proposed development, that it would be out character with the existing area. I accept that the more prevalent character in the area is low rise suburban style housing. In relation to the proposed density I note that the proposed 72 units per hectare is in accordance with Section 8.2.3.2 of the Development Plan which recommends the provision of densities at higher than 50 dwellings per hectare at locations readily accessible to public transport corridors – QBCs, Luas, DART.
- 7.1.3. Regarding the matters of building height and adherence to existing pattern of residential development in the area as raised in the appeals, Ministerial policy as set out in 'Urban Development and Building Heights' Guidelines for Planning Authorities advises that the constant expansion of low-density suburban development around our cities and towns cannot continue. Section 3.4 of the Guidelines refers to Building height in suburban/edge locations (City and Town) and it advises that for newer housing developments outside city and town centres and inner suburbs, i.e. the suburban edges of towns and cities, should now include town-houses (2-3 storeys), duplexes (3-4 storeys) and apartments (4 storeys upwards). The Guidelines advise that such developments also address the need for more 1 and 2 bedroom units in line with wider demographic and household formation trends, while at the same time providing for the larger 3, 4 or more bedroom homes across a variety of building typology and tenure options, enabling households to meet changing accommodation requirements over longer periods of time without necessitating relocation.

- 7.1.4. The third party appeals raise concern regarding overshadowing and overlooking of adjoining properties. In relation to the matter of overshadowing, a shadow study was submitted by PMCA Architects with the application. Having reviewed the shadowing diagrams for the Spring Equinox, 21st of March, I note that the rear of properties on Mount Eagle View are not impacted by shadowing at 9am, 12pm and 3pm. At 5pm due to the low elevation of the sun the rear gardens would predominately be in shadow even in the absence of the proposed development. The proposed development would result in very limited additional overshadowing of a number of rear gardens in the late afternoon and evening. I further note the response of the applicant to the further information request in relation to the matter of shadowing at the Spring Equinox. They state that the rear gardens at Mount Eagle View will received at least six hours of sunlight on 21st of March which is a substantially greater amount of sunshine than the recommendations set out in BRE Guideline Documents.
- 7.1.5. Having regard to the separation distance of over 30m from the proposed three-storey blocks to the neighbouring dwellings and given that the additional shadowing would very limited and there would be no direct additional shadowing onto the houses, I am satisfied that the proposed development would not unduly impact the amenities of neighbouring property in terms of overshadowing.
- 7.1.6. In relation to the issue of overlooking I note that the separation distances provided between the proposed three-storey development of Block A and Block B the rear of the properties at Mount Eagle View ranges from between 32m to 35m. The separation distance between the side of Block A to the rear of no. 3A Mount Eagle Rise is 27m at the closest point. The separation distance between the side of Block C a four-storey block and the side of 'Red Cottage' to the west is circa 10m at the closest point. As part of the further information the applicant was required to relocate Block C back from the boundary, it is now setback 5m from the boundary. I note that the west elevation of Block C features high level windows at first, second and third floor and obscure glass screens are proposed to the side of the upper floor balconies. These measures will therefore mitigate any potential overlooking of 'Red Cottage'. Therefore, I consider having regard to the proposed siting and design of the scheme and relative separation distances to the existing dwellings to the north,

north-east, north-west and west of the site that the proposed scheme would not result in any undue overlooking of residential properties.

- 7.1.7. Having reviewed the proposed layout of the scheme relative to the existing surrounding properties, I consider having regard to the proposed siting of the new buildings and relative separation distances to the existing dwellings that the proposed scheme would not result in any undue overlooking or overshadowing of residential properties.

7.2. Access and traffic

- 7.2.1. The proposal entails the provision of a total of 32 no. dwelling units. There is an existing vehicular entrance to the south-eastern corner of the site onto Kilgobbin Road. It is proposed to relocate the entrance circa 3m to the north-west. Sightlines of 49m are available in both directions at the proposed vehicular entrance. The Transportation Planning Section had concerns regarding the proximity of the proposed new vehicular entrance to the existing vehicular entrance to Ferncarrig Avenue. This matter was raised in the further information request. As set out in the response from DBFL Consulting Engineers, the staggered distance between the new entrance and the entrance to Ferncarrig Avenue is 29.2m which is in excess of the minimum 20m detailed in the TII design document "Geometric Design of Junctions".
- 7.2.2. Also, as part of the further information the applicant was requested to submit proposals to facilitate a future road access to serve the adjacent site to east. The revised roads layout on Drawing No: 170216-2000 indicates a provision for a future road connection to service the lands to the east. Accordingly, I consider, the location of the proposed vehicular entrance to the site and access arrangements are acceptable.
- 7.2.3. Third party appellants have raised concern regarding the additional vehicular traffic the scheme would generate and lack of car parking within the development. Regarding the matter of traffic generation, in terms of overall scale and intensity the proposed development it is relatively modest in scale. The nature of the traffic associated is residential which is not out of character with the existing type of traffic that frequents the road network in the vicinity of the site. Having inspected the site and road network in the vicinity I would consider that such is of sufficient capacity to deal with level of traffic likely to be generated by the proposed development.

- 7.2.4. Car parking standards are set out under Table 8.2.3 of the Dún Laoghaire Rathdown Development Plan 2016 – 2022 sets out the car parking standards for residential schemes. Generally, 1 no. car parking space is required for all one bed units, 1.5 spaces per two bed unit and 2 per three bed unit.
- 7.2.5. The proposed scheme comprises a total of no. 32 apartments with 3 no. one bed units, 22 no. two bed units, 6 no. three bed units and 1. no four-bed unit. Therefore, 3 no. spaces would be required for the one bed units, 33 no. spaces would be required for the two bed units, 12 no. spaces would be required for the three-bed unit and 2 no. spaces would be required for the four-bed unit. Accordingly, a total of 50 car parking spaces would be required in accordance with Table 8.2.3 of the Development Plan. A total of 37 no. surface car parking spaces are proposed. There would be a shortfall of 13 no. spaces. Transportation Planning Section in their assessment of the proposed scheme deemed that the location was appropriate for a reduction in car parking standards for the apartment units as is recommended in ‘Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities’. The Guidelines advise for accessible urban locations where apartments are proposed and that are well served by public transport, the default policy is for car parking provision to be minimised, substantially reduced or wholly eliminated in certain circumstances. Suitable locations for such a reduction in car parking includes locations which are within 10 minutes walking distance of DART, commuter rail or Luas stops or within 5 minutes walking distance of high frequency (min 10 minute peak hour frequency) bus services.
- 7.2.6. Regarding public transport provision in the area, I note that Kilgobbin Road is served by the no. 44, no. 47 and no. 118 bus routes and the site is located 700m from Glencairn Luas Station and 1km from The Gallops Luas Station. Therefore, the location of the site within 10 minutes walking distance of Luas stops means that it is an appropriate location for a reduction in car parking standards.
- 7.2.7. Transportation Planning Section considered that an appropriate level of car parking for the scheme would be 1.1 off-street car spaces per residential unit, with 1 space allocated per residence and 0.1 a share in visitor/disabled/car share parking. Based on 1.1 spaces per residential unit a total of 35.2 spaces would be required. A total of 56 no. bicycle parking spaces are also proposed.

- 7.2.8. I note that in the grant of permission the Planning Authority included a condition which omitted car parking spaces no. 31 and no. 32 due to their proximity to the open space and that motorbike parking be located adjacent to the cycle parking on the western side of the site. I consider it would be appropriate to include a similar worded condition should the Board decide to grant permission to protect the amenity of the public open space and to provide parking for motorbikes.
- 7.2.9. The proposed scheme is well served by public transport and each dwelling unit has bicycle parking, therefore I consider the shortfall in car parking in terms Development Plan standards would be acceptable.

7.3. Tree Bond

- 7.3.1. The first party lodged an appeal against condition no. 8(i) which states;

“Prior to the commencement of development and related tree felling and construction activities the applicant shall lodge a Tree Bond with the Planning Authority, as security for tree protection and a deterrent to wilful or accidental damages during construction. The Bond shall be based on a notional estimate of the combined value—amenity and ecosystems services of retained trees, taking account of the percentage tree loss(es) due to direct impacts on healthy trees. The minimum value of tree Bond shall be €85,000.00.”

Reason: To ensure and provide security for the protection and long-term viability of trees to be retained on the site.”

- 7.3.2. The appellant contends that this amount at €85,000.00 is excessive as only 4 no. trees would be retained following development. The appellants state that the method of calculating the amount of the Tree Bond has not been indicated in the Planning Authority documents. There is no reference to the computation of the amount and that the normally used method of monetary evaluation of trees is the ‘Helliwel’ system, (Helliwel, R: Visual amenity valuation of trees and woodlands, Guidance Note 4, Arboricultural Association, 2008.
- 7.3.3. The Planning Authority in their response to the matter stated that the development of the scheme would result in the loss of high value trees BS 5837 - Category A & B and that therefore the remaining 4 no. trees on site are vital to the development. The 4no. trees proposed to be retained are considered of high aesthetic, ecological and cultural importance in the arborist report. The Planning Authority consider that the

works required to build the development would significantly encroach on the root protection area and therefore significant care is required during construction to ensure that the trees will not be significantly affected. The Planning Authority submit that given the extent of construction works will encroach onto the trees a tree bond of €85,000.00 is appropriate.

- 7.3.4. The appellant has cited two examples of permissions granted by the Board where lesser monetary amounts of tree bonds have been conditioned. In the case of PL06D.243091 a bond of €50,000.00 was conditioned where there were 22 no. trees on site. Under PL06D.245911 where permission was granted for a residential scheme a bond of €5,000.00 was conditioned where there were 3 no. trees on site. While I note the cited examples the Planning Authority make the case that the development would result in the loss of significant number of trees. As detailed in the Arboricultural Assessment a total of 15 no. trees would be removed with 4 no. trees to be retained. 3 no. Category B trees, 10 no. Category C trees and 2 no. Category U trees would be removed. Two of the trees which would be retained on site are Category A trees and two are Veteran trees. Accordingly, the trees to be retained are of high quality.
- 7.3.5. Notwithstanding the fact that the Planning Authority did not provide a method of calculating the subject tree bond it is set out in Section D.1.1 of DLR Trees – A tree strategy for Dun Laoghaire-Rathdown 2011-2015 that adequate provision shall be made for the protection and retention of important trees and where trees and hedgerows are to be retained the Council will require a developer to lodge a tree bond to ensure the correct retention and protection of trees. The retention of the 4 no. trees on site will provide significant amenity value to proposed scheme therefore, should the Board decide to grant permission for the proposed development I would recommend that attachment of a condition requiring the payment of a tree bond of €85,000.00 to ensure that they are satisfactorily protected and retained.

7.4. **Appropriate Assessment**

- 7.4.1. Having regard to the nature and scale of the proposed development and the location of the site in a serviced urban area and the separation distance to the nearest European site, no Appropriate Assessment issues arise, and it is not considered that

the development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

7.5. Other Issues

Section 49 Supplementary Development Contribution Scheme

- 7.5.1. The proposed development site is located within that area subject to the Section 49 Supplementary Development Contribution Scheme for the extension of Luas Line B1 from the Sandyford Luas Depot to Cherrywood and in this regard, I would recommend the attachment of an appropriate condition should the Board decide to grant permission.

Construction and demolition works

- 7.5.2. The grounds of appeals also raises the potential impacts of construction and demolition works. In order to ensure that construction and demolition works on site would have as limited an impact as possible, I consider that should the Board decide to grant permission that a condition be attached requiring that the developer shall submit a detailed Construction Management Plan to the Planning Authority for their agreement. The plan should include proposed hours of operation, details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels, off-site disposal of construction/demolition waste and details of the timing and routing of construction traffic.

8.0 Recommendation

- 8.1. I recommend a grant of permission subject to the following conditions.

9.0 Reasons and Considerations

- 9.1. Having regard zoning objective for the site as set out in the Dún Laoghaire Rathdown County Council, 2016 – 2022, the National Planning Framework, 2018 – 2040, the Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities (2009), Urban Development and Building Heights, Guidelines for Planning Authorities, 2018, and the overall scale, design and height of the proposed development it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the

visual or residential amenities of the area or of property in the vicinity, and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 24th day of October, 2018, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The proposed development shall be amended as follows: -
 - (a) The glazing within the windows on the west elevation of Block C, excluding the ground floor shall be permanently fitted with opaque glazing.
 - (b) Car parking spaces no. 31 and no. 32 shall be omitted and motorbike parking shall be located adjacent to the cycle parking on the western side of the site.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of protecting the residential amenities of adjoining properties and the amenity of the public open space.

3. 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.

Reason: In the interest of public health.

4. The applicant or developer shall enter into water and wastewater connection agreements with Irish Water prior to the commencement of this development.

Reason: In the interests of clarity.

5. Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

6. The existing stone perimeter walls shall be retained and repaired. Prior to commencement of development details of the proposed boundary treatments for the remaining boundaries shall be submitted to the planning authority for written agreement.

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

7. Proposals an estate/street name, house/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

estate and street signs, and house/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.

8. The internal road serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, shall comply with the detailed standards of the planning authority for such road works.

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

9. The developer shall ensure provision of electric vehicle charging points for minimum number of car parking spaces in accordance with Section 8.2.4.12 of the Dún Laoghaire-Rathdown County Development Plan 2016-2022.

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

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

Reason: In the interests of visual and residential amenity.

11. Each proposed apartment unit shall be used as a single dwelling unit and shall not be subdivided in any manner or used as two or more separate habitable units.

Reason: To prevent unauthorised development.

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

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

13. Prior to the commencement of development the applicant shall submit full details of the proposed public lighting, including the lighting levels within open areas of the development for written agreement prior to the commencement of development.

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

14. 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.

15. Site development and building works shall be carried out only between 0800 to 1900 hours 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.

16. The applicant shall submit a post-installation Practical Completion Certificate, in accordance with the requirements and guidelines of the Royal Society for the Prevention of Accidents (RoSPA). The Certificate shall be prepared and signed by a suitably qualified (RoSPA – approved) technical professional with expertise and experience in playground design and playground health and safety.

Reason: To ensure the provision and construction of safe, quality play provision in compliance with best practice and reputable guidance and Section 8.2.8.5 of the Dún Laoghaire Rathdown County Council, 2016 – 2022.

17.

(a) The communal open spaces, including hard and soft landscaping, car parking areas and access ways, communal refuse/bin storage and all

areas not intended to be taken in charge by the local authority, shall be maintained by a legally constituted management company.

- (b) Details of the management company contract, and drawings/particulars describing the parts of the development for which the company would have responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the residential units are made available for occupation.

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

18. Prior to commencement of development or any related construction or tree felling, the applicant shall –

- (a) lodge a tree bond to a minimum value of €85,000 with the planning authority to ensure the protection of trees on the site and to make good any damage caused during the construction period. The bond lodgement shall be coupled with an arboricultural agreement, empowering the planning authority to apply such security, or part thereof, to the satisfactory protection of any tree or trees on or adjoining the site, or the appropriate and reasonable replacement of any such trees which die, are removed or become seriously damaged or diseased within a period of three years from the substantial completion of the development. Any replacement planting shall use large semi-mature tree size(s) and species or similar as may be stipulated by the planning authority.
- (b) After the period three years post practical completion, the developer shall submit an arboricultural assessment report and certificate signed by a qualified arborist to the planning authority. Any remedial tree surgery, tree

felling works recommended in that report shall be undertaken by the developer at his/her expense, under the supervision of the arborist. The tree bond shall not be released as and until the report, certificate and any remedial works have been fully undertaken, to the satisfactory of the planning authority.

Reason: To ensure the protection and long-term viability of trees to be retained on 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 for 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 and maintenance until taken in charge by the local authority of watermains, drains 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 or maintenance 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 and maintenance of the development until taken in charge.

21. The developer shall pay to the planning authority a financial contribution in respect of the extension of Luas Line B1 – Sandyford to Cherrywood in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 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 Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

22. 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.

Siobhan Carroll
Planning Inspector

18th of April 2019