



An  
Bord  
Pleanála

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

## Inspector's Report ABP-303429-19

---

### Strategic Housing Development

A residential development consisting of 184 no. units, together with ancillary site and development works

### Location

Townland of Laughanstown, Dublin 18 (lands generally bounded by Bishop Street to the south, the Luas green line to the east and Tully Park to the north.

### Planning Authority

Dun Laoghaire Rathdown County Council

### Applicant

Hines Cherrywood Development Fund  
ICAV

### Prescribed Bodies

Minister for Culture, Heritage and the Gaeltacht

National Transport Authority  
Transport Infrastructure Ireland  
Irish Water  
Luas Operator- Transdev Ireland  
Department of Education and Skills  
Dun Laoghaire Rathdown County  
Childcare Committee

**Observer(s)**

3 submissions received-  
National Transport Authority  
Transport Infrastructure Ireland  
Minister for Culture, Heritage and the  
Gaeltacht

**Date of Site Inspection**

28/03/2019

**Inspector**

Lorraine Dockery

## 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. 302461-18 gives a detailed description of the site and surrounding area, and below is an extract from this description, with which I generally concur:

*'The subject site is located on lands associated with the Cherrywood Planning Scheme. The site lies adjacent to Town Centre quadrant TC1 at the centre of the SDZ. The Green Line Luas runs to the east of the site and the Cherrywood Luas stop is approximately 50 metres away.*

*The site comprises disturbed ground with a steep topography. The site slopes upwards from the new Bishop Street to meet Tully Park. Long and rectilinear in shape, the site has considerable frontage to both Bishop Street and Tully Park. Bishop Street is a wide and straight street and terminates at Cherrywood Luas stop'.*

The stated site area is 3.06 hectares and is located within Development Area 2. It is referred by the applicant as plot 'T6'.

## 3.0 Proposed Strategic Housing Development

- 3.1. The proposed development, as per the submitted public notices, comprises a residential development consisting of 184 no. units. The proposed apartments have a height of 3-5 storeys while the houses/maisonettes are 2-3 storeys in height.
- 3.2. The following tables set out some of the key elements of the proposed scheme:

Table 1: Key Figures

<b>Site Area</b>	3.06 hectares (2.74 nett developable area)
<b>No. of residential units</b>	184 units
<b>Density</b>	60 units/ha (gross)/ 68 units nett
<b>Height</b>	3-5 storeys apartments 2-3 storeys houses/maisonettes
<b>Public Open Space</b>	3163m <sup>2</sup>
<b>Part V</b>	18 units
<b>Vehicular Access</b>	From Bishop Street and from local access road to west

Table 2: Unit Mix

	1 bed	2 bed	3 bed	4+ bed	Total
Apartments	31	87	16	-	134
Maisonettes	-	14	-	-	14
Houses	-	-	19	17	36
<b>TOTAL</b>	<b>31</b>	<b>115</b>	<b>35</b>	<b>17</b>	<b>184</b>
<b>As % of total</b>	<b>16.8</b>	<b>62.5</b>	<b>19</b>	<b>9.2</b>	<b>100%</b>

Table 3: Parking Provision

Car Parking	287 spaces, including 9 disabled spaces and 15 electric car charging points
Bicycle Parking	224

3.3. No childcare facility is proposed and a justification for lack thereof has been submitted with the application (section 5.5 of Statement of Consistency).

- 3.4. In term of site services, a new water connection to the public mains is proposed, together with a new connection to the public sewer. An Irish Water Pre-Connection Enquiry in relation to water and wastewater connections has been submitted, as required. It states that subject to a compliant water and wastewater layout and valid connection agreement being put in place, the proposed connection to the Irish Water network can be facilitated. Further IW correspondence, dated 12/12/18, has also been submitted in relation to the submission of a Design Submission. IW state that they have reviewed the proposed connection(s) and based on the information provided, have no objections to the proposal.
- 3.5. Included with the application is a letter of consent from Wm Neville & Sons Construction, (dated 15/08/18), giving consent to the inclusion of lands within their ownership (shown on drawing 17039-site layout plan-land ownership) as part of a planning application by Hines Cherrywood Development Fund ICAV for a new residential development within Development Area 2 of the Cherrywood SDZ (Plot TC6).
- 3.6. An Appropriate Assessment Screening Report has been submitted with the application which concludes that in their professional opinion, the proposed development does not require an Appropriate Assessment as it is possible to rule out likely significant effects on all European sites.

## 4.0 Planning History

### Nearby sites:

- **DZ15A/0758:** Permission GRANTED for roads and infrastructure – Phase 1.
- **DZ15A/0813:** Permission GRANTED for Tully Park, a 10 Hectare public park.
- **DZ17A/0862:** Permission GRANTED for Town Centre quadrants – TC1, TC2 and TC4. 1,269 dwellings, 39,000 m<sup>2</sup> office, 20,000 m<sup>2</sup> retail, 30,000 m<sup>2</sup> non-retail space library, health centre, 2 crèche and 2 hotels.
- **DZ17A/0714:** Permission GRANTED for 241 dwellings and a crèche.
- **DZ18A/0458:** Permission GRANTED for primary school.

- **DZ18A/0499:** Permission GRANTED for 146 apartments in four blocks on site TC5.

Overall SDZ lands:

- **ABP-302223-18:** Amendments of the Cherrywood SDZ Planning Scheme relating to Sequencing and Phasing of Development (Chapter 7 of the Approved Planning Scheme 2014, as amended). No Decision.
- **PL06D.ZE0002:** Amendments to the Cherrywood SDZ Planning Scheme 2014 relating to dwelling numbers in the Town and Village Centres and the sequencing of retail development in the Town Centre. Approved with conditions. June 2017.

## 5.0 Section 5 Pre Application Consultation

- 5.1. A Section 5 pre application consultation took place at the offices of An Bord Pleanála on the 10<sup>th</sup> October 2018. 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 constituted a reasonable basis for an application for strategic housing development to An Bord Pleanála.
- 5.2. The prospective applicant was advised that the following specific information should be submitted with any application for permission:
1. Notwithstanding that the documents constitute a reasonable basis for an application, the prospective applicant should satisfy themselves that the building heights proposed provide the optimal urban design and architectural solution for this site (having regard to the wider design objectives of the SDZ). A justification/design rationale of the proposal in this regard should refer to the objectives in national and local planning policy to secure a suitable building height across the site in an area served by high capacity public transport, as well as to the existing and emerging context of the wider area. Material submitted should include but is not limited to: extensive photomontage and computer-generated images of views across the site, for example from Tully Park; detailed contextual drawings that incorporate proposed and permitted

development in the vicinity, specifically on the southern side of Bishop Street and any other material the applicant decides will satisfactorily illustrate the design proposal.

Consideration should also be given to the possibility that the new s.28 guidelines on urban development and building heights would be material to a decision on the application having regard to the recently issued draft guidelines on the topic.

2. A report or reports that satisfactorily address all relevant objectives contained within the Cherrywood Planning Scheme and where divergence is proposed, in areas such as quantum and phasing, urban form and own door access, landscape and public realm design, a suitable and reasoned design rationale should be submitted.
3. Having regard to, inter alia, the specific wording relating to this development site and building height objectives, quantum and phasing, urban form and own door access, landscape, etc. contained in the Planning Scheme, the applicant should satisfy himself/herself that they can proceed with an application for the proposed development noting the provisions of section 9(6)(c) of the Planning and Development (Housing) and Residential Tenancies Act 2016. In the event that an application is made, the application documentation should clearly lay out the justification and rationale for the proposed development having regard to the above. The materiality or otherwise of any contravention of the statutory objectives pertaining to the site, should be fully addressed in the application documentation.
4. A report that specifically addresses the proposed materials and finishes and the requirement to provide high quality and sustainable finishes and details. Particular attention is required in the context of the prominent location within the Cherrywood Planning Scheme and the proximity to the Luas Green Line.
5. A life cycle report shall be submitted in accordance with Section 6.3 of the Sustainable Urban Housing: Design Standards for New Apartments (2018). In addition, the applicant shall ensure that advice provided by the guidelines in relation to the development management process (section 6.0) is followed.

6. Full and complete analysis and drawings that detail the impact of the proposed development on the residential amenity of future residents in relation to daylighting, overshadowing and overlooking. Specific attention should be paid to the separation distances between opposing blocks and the impact upon privacy and overlooking. Section 3.0 Apartment Design Standards of the Sustainable Urban Housing: Design Standards for New Apartments 2018, provides guidance in respect to these issues.
7. An Archaeological Assessment Report should be submitted
8. A site layout plan showing which, if any, areas are to be taken in charge by the planning authority.

### **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.

## **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
- 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



## 6.2. Local Planning Policy

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

The site is located with the boundary of the Adopted Cherrywood Planning Scheme.

### **Cherrywood Planning Scheme**

The Cherrywood Planning Scheme document should be read in conjunction with the Approved Amendments 1 - 4 document following the approval by An Bord Pleanála in June 2017.

The site is located in an area designated as Development Area 2 within the 1<sup>st</sup> Growth Area.

#### Zoning:

Res 2 (density range of 45-70 units per hectare) and subject to a

#### Height:

2 to 3 floors

Table 2.11 Building Height Ranges, sets out the minimum and maximum building heights for the various locations of the plan. The site is Res 2 and the table details 2 – 5 storeys and maximum height of 16 metres.

The Planning Scheme contains a number of detailed specific objectives, many of which apply to the site, some relevant objectives include:

PD 3 In Res2 plots the typology shall be predominantly own door units except for areas that require higher density (those fronting the Grand Parade, Castle Street and overlooking open space).

PD 9 To provide for principal frontages in each development plot to define strong streetscape elements, turn corners on public roads, and enclose and overlook amenity open space areas and green routes. These are identified on Map 2.4 and are indicative in length to allow for sufficient flexibility in breakages and access points.

PD 21 To allow building height within the range of storeys identified on Map 2.3. These heights have been informed by the characteristics of each site and are the maximum permissible on each development plot.

PD 23 It is an objective to encourage the use of ‘adaptable’ ground floor residential units with a greater internal floor to ceiling heights of 4 metres, along the Grand Parade and adjacent to Cherrywood Town Centre where increased overall building heights are proposed.

### **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.

In addition, a Material Contravention Statement has been submitted due to a departure from the Cherrywood Planning Scheme 2014 in relation to building height. The applicant has attempted to address this issue therein.

## **7.0 Third Party Submissions**

7.1. No third party submissions were received

## **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 March 6<sup>th</sup> 2019. A thorough and detailed report was submitted from the planning authority, which included a report from the Cherrywood Development Agency Project Team (DAPT), together with a report prepared by CAAS on consistency with the Planning Scheme’s Environmental parameters on behalf of the planning authority.

8.2. The Chief Executive 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

### DAPT

Refusal recommended as proposed development is not considered to be consistent with the Cherrywood Planning Scheme in terms of height

### Biodiversity Report:

Conditions attached

### Housing Department:

Conditions attached

### Waste Management Section:

Conditions attached

The main issues raised in the assessment were as follows:

- Proposed density is in accordance with Cherrywood Planning Scheme

- Luas green line runs in close proximity to the subject site and the nearest stop is Cherrywood Luas stop
- Map 2.3 Building Heights identifies that a maximum of 2-3 floors is permissible for this application site
- PA conscious that proposed development is located on a site which presents a number of design challenges, especially with regards to the topography of the site. From urban design perspective, it is considered that the proposed apartments respond to the sloping nature of the site and its location opposite a more dense, recently granted, town centre. Notwithstanding this, the building heights of the Cherrywood Planning Scheme document identifies that a maximum of 2-3 floors is permissible for this application site
- Accept that the form and height of the proposed apartment blocks and houses proposed are a good design response to the site and its topography
- DAPT have initiated a review of the Cherrywood Planning Scheme as specified under SPPR 3 of the Urban Development and Building Height Guidelines (Dec 2018)- review is pending completion; accordingly no amendments have been made to the Scheme
- Height range of 2-3 storeys is identified for subject site (max height in metres is stated as 16m). As the proposed height is not consistent with the Planning Scheme, PA must recommend refusal of permission. The proposed development is not consistent with section 2.9, Table 2.11, Table 6.21 and Map 2.3 of the CPS. The proposed apartment blocks therefore contravene the maximum building height of 3 storeys and maximum building height of 16m.
- In terms of residential quality, it is considered that proposal is in compliance with new Apartment Guidelines for Planning Authorities (2018) in terms of specific planning policy requirements.

- Rear gardens pass BRE standard in terms of daylight/sunlight analysis
- Recommends omission of eastern most detached dwelling due to its proximity to Block D- recommends that this area be incorporated into public open space provision which would improve public realm at this location
- Recommends reduction in size of dwelling A1, given quantum of rear garden open space
- Generally private open space provision is considered to be equal to or in excess of required standards
- Proposed development presents an urban design solution which responds well to the challenges of this unique site
- Housing typology proposed allows for predominantly own door access at ground floor level for dwellings and apartments where feasible and internally at new street level for the maisonette units which will add activity, vibrancy and an increased level of passive surveillance both along Bishops Street and along the internal street within the development itself.
- Design of public realm is generally well considered; living walls are welcomed as are landscaping proposals
- Justification given in relation to non-provision of crèche facility is accepted
- Proposal considered to be consistent with the Cherrywood Planning Scheme with regard to drainage, subject to conditions
- Conditions recommended in relation to transportation matters

- Recommended conditions in relation to biodiversity are not considered appropriate in relation to tufa springs as conditions relate to area outside of red line boundary
- Condition should be attached in relation to Part V, phasing and taking in charge

Concludes that PA welcomes an application for a residential scheme on this site. Proposal responds well to the sloping nature of the site. However in accordance with section 170 of the Planning and Development Act 2000, as amended, within a SDZ, permission can only be granted for a proposal that is consistent with the approved planning scheme in force. Notwithstanding that there are no negative impacts on views, the proposed development is not consistent with the height parameters as set out in the scheme.

The development is also premature pending a review of the scheme in accordance with SPPR3 of the Urban Development and Building Heights- Guidelines for Planning Authorities (2018).

The planning authority do not concur with the DAPT regarding own door units and consider that a predominance has been provided at ground floor level.

Refusal recommended

The report includes a summary of the views of relevant Elected Members, as expressed at the Dundrum Area Committee meeting held on 26/02/18 and are summarised below:

- car parking still required notwithstanding close proximity to Luas
- question whether application is premature given that planning scheme has not been amended to take on board new height guidelines
- hedgerow being removed has biodiversity value and should be replaced

## 9.0 Prescribed Bodies

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

- Department of Culture, Heritage and the Gaeltacht
- Irish Water
- National Transport Authority
- Transport Infrastructure Ireland
- Luas Operator- Transdev
- Department of Education and Skills
- Dun Laoghaire Rathdown County Childcare Committee

Three 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.

### The Minister for Culture, Heritage and the Gaeltacht:

#### Archaeology:

Have examined the archaeological assessment submitted with the application. On the basis of the information in the archaeological assessment there are no archaeological objections to grant permission, subject to the implementation of the proposed mitigation measures (section 5.2, pg 10) at pre-construction and construction phases as conditions of any such grant.

#### TII

Proposed development falls within the area for an adopted section 49 Supplementary Development Contribution scheme-Extension of Luas Line B1-Sandyford to Cherrywood under the Planning and Development Act 2000, as amended. If the above application is successful and is not exempt, please include a condition to apply the section 49 Luas Line levy.

#### National Transport Authority

Supportive of the quantum and density of development proposed as it aligns broadly with the provisions of the SDZ Planning Scheme. The site is well served by public transport and it is close to the designed town centre, schools and open space.

Notwithstanding the support in principle, states that the proposed site layout does

not accord with the objectives of the Cherrywood SDZ Planning Scheme in relation to the provision of cycling and walking. Strongly recommends that the Pedestrian and Cycle Route proposed in the Access and Movement Strategy be provided. The alignment through the subject site must cater for all pedestrians and provide a step-free route that serves the desire line indicated.

## 10.0 Assessment

10.1.1. 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; Cherrywood SDZ Planning Scheme; relevant section 28 Ministerial guidelines; provisions of the Planning Acts, as amended and associated Regulations; the Record of Section 5 Consultation Meeting; Inspector's Report at Pre-Application Consultation stage and Recommended Opinion; together with the Notice of the Pre-Application Consultation Opinion. I have visited the site and its environs. In my mind, the main issues relating to this application are:

- Principle of development/consistency with Cherrywood SDZ
- Design and Layout
- Impacts on amenity
- Traffic and transportation
- Drainage
- Other matters
- Biodiversity/Appropriate Assessment/SEA
- Screening for EIA



10.1.2. I note the information submitted by the applicants, as included in the Planning Statement. The compiling of the material is such that it is difficult to find. No page numbers associated with the table of contents or markers to differentiate sections/topics are included making it difficult to navigate. Additional information is included within the document which is not referred to in the table of contents. While I highlight this issue, it did not affect the outcome of my recommendation.

## **10.2. Principle of Proposed Development/Consistency with Cherrywood SDZ**

10.2.1. As background, I note that Dun Laoghaire-Rathdown County Council, as the designated development agency for the SDZ, prepared a Planning Scheme for the majority of the lands comprised in the Strategic Development Zone. This Scheme was the subject of an appeal to the Board (ZD06D.ZD2010) and, following an oral hearing, it was modified by means of a Board Order that issued on 25th April 2014. A number of amendments to the Scheme have been permitted in the interim. I note that this is an application made under the strategic housing legislation, it is not an application for amendment of the approved Planning Scheme, under section 170A(1) of the Planning and Development Act 2000, as amended.

10.2.2. Having regard to the nature and scale of development proposed, namely an application for 185 residential units located on lands which are located within the zoning objective Res 2 with a density range of 45-70 units per hectare, 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.

10.2.3. In summary, the planning authority in their Chief Executive report state that in accordance with section 170 of the Planning and Development Act 2000, permission can only be granted within a SDZ for a proposal that is consistent with the approved Planning Scheme in force. They continue by stating that as the proposed development is considered not to be consistent with the height parameters as set out in the Scheme, permission cannot be granted for the proposed development.

10.2.4. The first issue in this case is therefore to determine whether it is open to the Bord to consider such an application within a strategic development zone under the strategic housing legislation. In this regard, I note the aforementioned section 170 of the Act

of 2000 as referred to by the planning authority. However, I draw the attention of the Bord to section 4(4) of the Planning and Development (Housing) and Residential Tenancies Act 2016, which states that

*'In the case of an application for permission for a strategic housing development that is located in a strategic development zone, the applicant may elect to make the application to the planning authority under section 34 of the Act of 2000 rather than under this section and, accordingly, section 170 of that Act applies to the application to which the said section 34 relates'.*

10.2.5. It is my opinion that the above section of the Act of 2016, which while not explicitly stated, implies that it is open to the Board to consider an application for a strategic housing development within such strategic development zones. The applicant may elect to make such an application to either the planning authority or An Bord Pleanála. To my knowledge, it is not explicitly stated anywhere within the strategic housing legislation that it is not open to ABP to consider applications within Strategic Development Zones. Following on from that, in considering such applications, it would be open to the Bord to either grant or refuse permission, as appropriate. Therefore, firstly, I am of the opinion that based on the above, it is open to the Board to consider such an application within a Strategic Development Zone.

10.2.6. The Notice of Pre-Application Consultation Opinion which issued from An Bord Pleanála stated that having regard to, inter alia, the specific wording relating to this development site and building height objectives, quantum and phasing, urban form and own door access, landscape, etc. contained in the Planning Scheme, the applicant should satisfy himself/herself that they can proceed with an application for the proposed development noting the provisions of section 9(6)(c) of the Planning and Development (Housing) and Residential Tenancies Act 2016. In the event that an application is made, the application documentation should clearly lay out the justification and rationale for the proposed development having regard to the above. The materiality or otherwise of any contravention of the statutory objectives pertaining to the site, should be fully addressed in the application documentation.

10.2.7. I note from the detailed documentation included in the planning authority reports, that they consider the proposal to be generally consistent with all parameters of the Cherrywood SDZ, with the exception of the height parameter. Map 2.3 of the

Cherrywood Planning Scheme identifies that a maximum of 2-3 floors is permissible for this application site. It is also noted that Table 2.11 and Table 6.2.1 both indicate maximum and minimum building heights for residential development within Cherrywood. The planning authority state that these tables, along with Map 2.3 should be read in conjunction. I refer the Bord to Table 6.2.1 which refers to a building height range of 2-5 storeys in residential lands within Development Area 2 and note that the proposal is consistent with same. Table 2.11 defines the range of building heights across all residential areas in Cherrywood as being 2-5 storeys in height. The proposal is again consistent with same. The DAPT report states however that this height is across the entire Area 2 lands and not specific to this site. Map 2.3 refers to specific sites and it is this map which states 2-3 floors as being permissible for this particular site.

10.2.8. Under section 9(6)(a) of the Planning and Development (Housing) and Residential Tenancies Act 2016, the Bord may decide to grant permission for a proposed SHD in respect of an application under section 4 even where the proposed development, or a part of it, contravenes materially the development plan or local area plan relating to the area concerned. The legislation states that the Bord shall not grant permission under section 9(6)(a) above, where the proposed development, or a part of it, contravenes materially the development plan or local area plan relating to the area concerned, in relation to the zoning of land. 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) of the Act of 2000, are in the national, strategic interest; conflict with national/regional policy; ambitious policy within the development plan and the pattern of permissions in the vicinity since the adoption of the development plan. The key question here is in relation to the materiality of the proposed development- whether it is considered that the proposal represents a material contravention of the subject Planning Scheme and if so, does such a material contravention relate to the zoning of land? I am cognisant of the fact that this aforementioned section 9(6)(a) of the Act of 2016 refers to contravening materially the development plan or local area plan; it does not reference contravening strategic development zones and I draw the attention of the Bord to this.

10.2.9. The applicants have stated in the application form and public notices that the proposal represents a material contravention of the Planning Scheme, while in the Material Contravention Statement accompanying the application, this has not been explicitly stated. The planning authority have stated that the proposal contravenes the maximum building height as set out in the Cherrywood Planning Scheme. It is my opinion that the proposed development while contravening the Scheme in terms of height, does not represent a material contravention of the Cherrywood Planning Scheme. The Scheme states that a height of 2-3 storeys is allowable on this site. The site is somewhat unusual in terms of its topography, with a stated 9 metre level difference from north to south. The proposed houses/maisonettes are consistent with the Scheme being 2-3 storeys in height, the issue arises with the height of the proposed apartments. They are three storey to the internal street and five storey (maximum) to Bishop Street, with fifth storey setback. They are therefore consistent with the Scheme when viewed from the internal street, not so when viewed from Bishop Street. The increase in height over and above the 16m height limit, as specified in the Planning Scheme, is just over 1 metre. In my opinion, the proposed development represents an appropriate solution to the streetscape at this location and this is best highlighted in Image 11 of the Architect's Design Statement. It would also be in accordance with the objectives of the Planning Scheme to provide for a strong coherent streetscape along Bishop Street. A height of three storeys to Bishop Street, as currently set out in the Scheme, would result in a single storey height to the internal street and this is considered not to be an optimum or sustainable use of valuable land resource at this location, opposite the town centre where up to eight storeys have been permitted and within 50 metres of the LUAS stop. It would provide a weak streetscape and would look visually incongruous at this location; it would not be intuitive logic to permit a single storey building fronting onto the internal street, given the locational characteristics of the site. The proposed apartments, four to five storeys in height to Bishop Street are actually lower in height than the three storey houses fronting onto Tully Park. An argument has been put forward in the documentation with regard to the somewhat unusual characteristic of this site in terms of its topography and I accept this argument.

10.2.10. I note section 2.9 of the Planning Scheme which states that '*Where a building addresses two streets, building height will be measured from the higher street*'. It

appears that it is the intention of the planning authority that this relate solely to developments within Town Centre plots, although it is unclear if this is explicitly applicable to the town centre or why it would relate solely to town centre plots. The subject site is located immediately across Bishop Street from town centre zoned lands. The proposed apartments address two streets and taking this parameter into consideration, at the higher street, (namely the proposed internal street), the height of the proposed apartments does not extend beyond three storeys. The attention of the Bord is drawn to this.

10.2.11. I am of the opinion that due to the particular characteristics of this site in terms of topography, it would not set a precedent for other amendments to the planning scheme. In any event, each application is assessed on its own merits. In conclusion, having regard to all of the above, including the extent of the proposal, the parameters of the Scheme and the affect that the changes will have on the overall Scheme, I am of the opinion that the proposal does not represent a material change to the adopted Planning Scheme and therefore consider that Section 37(2)(b) of the Act of 2000 is not applicable in this instance.

10.2.12. 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 residential development such as that proposed on sites in close proximity to quality public transport routes and within existing urban areas. 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 site is considered to be located in a central and accessible location, it is within easy walking distance of good quality 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. Given the location of the site, proximate to planned services, facilities and public transport infrastructure, I am of the opinion that the site may be capable of greater height and density than that currently proposed and the attention of the Bord is drawn to this.

10.2.13. The planning authority has recommended refusal for the proposal stating that the proposed development is considered premature pending a review of the planning scheme as required under SPPR3 of the Urban Development and Building Heights, Guidelines for Planning Authorities (2018). I note SPPR3(B) of the Urban Development and Building Heights, Guidelines for Planning Authorities (2018) which states that *'in the case of an adopted planning scheme the Development Agency in conjunction with the relevant planning authority (where different) shall, upon the coming into force of these guidelines, undertake a review of the planning scheme, utilising the relevant mechanisms as set out in the Planning and Development Act 2000 (as amended) to ensure that the criteria above are fully reflected in the planning scheme. In particular the Government policy that building heights be generally increased in appropriate urban locations shall be articulated in any amendment(s) to the planning scheme'*. The planning authority have stated in their submission that a review of the Scheme is underway. Section 1.14 of these aforementioned guidelines states that *'where SPPRs are stated..., they take precedence over any conflicting, policies and objectives of development plans, local area plans and strategic development zone planning schemes'*. As is stated above, the planning authority has stated that a review is currently underway on the scheme, as required under the aforementioned Guidelines, and that presently the proposal is considered premature in the absence of the finalisation of this review. I do not disagree with this assertion and consider that the proposal could very reasonably be considered premature in the absence of the completion of this review. In an ideal scenario, the entire Scheme would be comprehensively examined in light of new section 28 guidelines, both in terms of height and density, and the review would be completed before any changes to the Scheme are proposed. However, I am cognisant of the spirit of the strategic housing legislation, which aims to fast-track housing development on appropriate sites in accordance with the policies and objectives of Rebuilding Ireland. This legislation recognises the strategic importance of such sites in the provision of housing in meeting both current and future need. Inevitably, the review process is going to take a period of time, no details have been provided of its timeframe. Therefore, in all likelihood, it is my opinion the spirit of fast-tracking would be better achieved through the SHD process in this instance, rather than waiting for the review process to be completed. The Bord may disagree with this opinion.

10.2.14. Ultimately what is at issue is the proper planning and sustainable development of the area. I consider that the proposal before me represents a better outcome for the area in terms of urban design, height, layout and scale than that approved in the planning scheme, given the site characteristics. While Map 2.3 purports to be site specific in terms of stated heights, I consider that a height of 2-3 storeys at this location would not be to the benefit of anyone. The density proposed remains within the parameters set out within the Scheme, as does the nature of the development envisaged. Depending on how the Scheme is read, many of the height parameters could be considered to be achieved. I consider the proposal before me to be in accordance with the proper planning and sustainable development of the area. The planning authority have not raised significant concerns in relation to the proposal, aside from the procedural issue raised above, and they are generally positive towards the proposal.

10.2.15. Therefore, taking all of the above into account, I am of the opinion that it is open to An Bord to consider this application, primarily having regard to section 4(4) of the Planning and Development (Housing) and Residential Tenancies Act 2016. Regard has also been had to the relevant sections of the Urban Development and Building Heights, Guidelines for Planning Authorities (2018) in this instance. Ultimately taking a reasonable approach, I pose the question as which proposal provides a better outcome in terms of the proper planning and sustainable development of the area and in my opinion, it is the proposal before me. There will always be exceptions to every rule and circumstances will arise where the accepted parameter is not suitable, for whatever reason. In my opinion, in this particular case the topography of the site is such that the application of a 2-3 storey height cap is not appropriate and I consider this site to be one such exception.

### 10.3. **Design and Layout**

10.3.1. The proposal involves the construction of 184 residential units, associated site and development works at lands generally bound by Bishop Street to the south, the Luas green line to the east and Tully Park to the north, Dublin 18.

10.3.2. The proposal development is considered acceptable in principle and I do not have major issues in relation to the proposal. The site provides a challenge, primarily in terms of its topography and I consider that the design solution before me responds

well to this challenge. A good quality layout is proposed which would create a robust streetscape and layout at this location. A sense of place is being created and connectivity/permeability is good. Heights are considered appropriate; good quality finishes and materials are proposed and a contemporary elevational finish is evident. The issue of own door access was raised at pre-application stage and I note the DAPT in their report, as contained within the Chief Executive report, states that the number of own door units has increased from 50 units to 87 units. This is welcomed in terms of adding vibrancy, activity and increased level of passive surveillance and I would concur with this assertion. This figure equates to 47% of the units proposed. DAPT considers this figure to be unacceptable and recommends removal of the top two floors of the apartment blocks so as to increase the percentage of own door units. The Planning Authority consider this figure to be acceptable and is of the opinion that the housing typology proposed allows for predominantly own door access at ground floor level for the dwellings and apartments where feasible and internally at the new street level for the maisonette units. I would concur with the opinion of the planning authority and I consider that the extent of own door units proposed is acceptable and is sufficient to add vibrancy, passive surveillance and a sense of activity to the area.

10.3.3. Density at 68 units/ha is proposed for this site, calculated on a site area of 2.73 hectares. The proposed density is in accordance with Cherrywood Planning Scheme, which allows for a permissible density of 45-70 units/ha. Having regard to current relevant section 28 ministerial guidelines, together with the location of the site proximate to the Luas green line and to Cherrywood Town Centre, I am of the opinion that this is a conservative figure for this location and the site may have the capacity to cater for a greater density. This may be examined during the aforementioned review of the overall Scheme. Notwithstanding this, the density is in accordance with the approved Planning Scheme.

10.3.4. Unit mix is good providing for a range of unit types, catering to persons at differing stage of the lifecycle. Open space requirements have been generally satisfied and good quality spaces are proposed. I note the Planning Authority recommendation to omit Unit D at the eastern end of the site and incorporate this area into the public open space provision, due to its proximity to Block D and also in order to provide a



better quality open space at this location. I would concur with this assertion and recommend that the issue be dealt with by means of condition.

- 10.3.5. It is my opinion that the proposed development is generally in compliance with relevant SPPRs, as set out in the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2018) in relation to unit mix, units sizes, private open space provision, number of dual aspect units and ceiling heights.
- 10.3.6. I note the Part V proposal which include for the provision of 18 no. units on site (within Blocks A and D) and that negotiations are currently underway with the planning authority. The planning authority has not raised concern in relation to this matter and recommends that a condition be attached to any grant of permission relating to this matter.
- 10.3.7. No childcare facility is proposed and a justification for lack of same (section 5.5 of Statement of Consistency) has been submitted. It states that the proposed Cherrywood Town Centre development provides 2 no. childcare facilities of 969 square metres gross floor area and combined these facilities will provide c. 162 childcare spaces. These spaces will augment existing facilities in the area, as detailed. I am satisfied with regards to this matter and the planning authority has not raised concern in this regard.
- 10.3.8. I note the public open space/urban realm provision and consider it to be of good quality and would create attractive spaces for people to live and gather. A green link pedestrian access way from north/south through the site connecting Tully Park with Bishop Street is proposed. The proximity of the proposal to Tully Park and the outlook from the proposed dwellings onto this park would be attractive. The topography of the site and the design of the proposal is such that views from Tully Park are not expected to be interrupted.

#### 10.4. **Impacts on Amenity**

- 10.4.1. Having regard to the orientation of the site, the separation distances involved and the design of the proposed units, I do not have undue concerns with regards the impacts on amenity of properties in the vicinity. I note the level differences across the site, but am satisfied that the proposal will not adversely impact on properties in the vicinity. Adequate separation distances are proposed between blocks to avoid issues

of overshadowing or overlooking. A Daylight Sunlight Assessment was submitted with the application which indicates that acceptable levels of daylight/sunlight can be achieved across the development.

10.4.2. Having regard to all of the above, I am satisfied that the level of amenity being afforded to future occupiers of the proposed scheme is generally acceptable, subject to condition. I am also satisfied that impacts on existing residential amenity would be negligible. I have no information before me to believe that the proposal if permitted would lead to devaluation of property in the vicinity.

## **10.5. Traffic and Transportation**

10.5.1. I note the issue of transportation has been dealt with within section 12.8 of the Chief Executive report of the planning authority. The DAPT recommends conditions be attached to any grant of permission in relation to a network of walking and cycling routes within the Scheme. This issue has also been raised in report of NTA, detailed above. The reports of the TII and NTA are generally positive towards the proposed development, with the TII recommending a condition relating to section 49 contribution be attached to any grant of permission. These matters should be dealt with by means of condition, if the Bord is disposed towards a grant of permission.

10.5.2. A Traffic and Transport Assessment and a Travel Plan have been submitted with the application, the contents of which appear reasonable and robust. Having regard to all of the information before me, I am not unduly concerned in relation to transportation matters. I consider the level parking proposed to be adequate. I have no information before me to believe that the road network in the vicinity does not have adequate capacity to cater for any increase in traffic generated by the proposed development. I noted that much of the general road infrastructure within the SDZ is in situ to cater for the development as it comes on stream. I also have no reason to believe that the proposed development, if permitted would lead to the obstruction for road users or the creation of a traffic hazard at this location.

## **10.6. Drainage**

10.6.1. An Engineering Services Report and Flood Risk Assessment have been submitted with the application. In term of site services, a new water connection to the public mains is proposed, together with a new connection to the public sewer. An Irish Water Pre-Connection Enquiry in relation to water and wastewater connections has

been submitted by the applicant, as required. It states that subject to a valid connection agreement being put in place, the proposed connection to Irish Water network can be facilitated. It continues by stating that in relation to water, connection is feasible subject to the commissioning and connection to the core water infrastructure in the Cherrywood SDZ. In relation to wastewater, connection is feasible subject to commissioning and connection of the core wastewater infrastructure in the Cherrywood SDZ. No report was received from Irish Water, at application stage. It is noted that the DAPT report, as contained in the Chief Executive report includes a report from JBA Consulting Engineer's, who were engaged by the DAPT team for the purposes of reviewing stormwater and SuDS proposals in this application. The JBA report concludes that the proposals are generally acceptable in principle but that some areas require further detail and clarification, which could be dealt with at design stage by means of condition. The planning authority concludes that the proposed development is considered to be consistent with the Cherrywood Planning Scheme with regards to drainage, subject to a number of conditions which should be attached to any grant of permission.

10.6.2. Having regard to all of the information before me, I am satisfied that the proposed development is located within an urban, appropriately zoned and serviced location; that the proposal would be acceptable from a drainage perspective, subject to condition and that the proposal would not be prejudicial to public health.

#### **10.7. Other issues**

10.7.1. An Archaeological Assessment was submitted with the application, which states that the site has been largely subject to previous archaeological monitoring of topsoil stripping in advance of the proposed Cherrywood Business Park Phase II. The northern limit of the site was also subject to recent test trenching. No archaeological remains were identified at this time. It is estimated that less than 20% of the site remains undisturbed greenfield. I note the report of the DAU in relation to archaeology, which states that on the basis of the information in the archaeological assessment there are no archaeological objections to grant permission, subject to the implementation of the proposed mitigation measures (section 5.2, pg 10) at pre-construction and construction phases as conditions of any such grant. I recommend that the matter be dealt with by means of condition.

## 10.8. Ecology/Appropriate Assessment/Strategic Environmental Assessment

- 10.8.1. An Ecological Impact Assessment and Habitat Management Plan have been submitted with the application, the contents of both appear reasonable and robust. Table 1 of the Ecological Impact Assessment gives a good overview of the evaluation of key ecological receptors while Table 2/3 outlines a summary of ecological planning scheme objectives/biodiversity plan objectives and how they have been addressed. The report states that the steep gravel slope within the lands includes a series of small calcareous springs. It clarifies that calcareous springs within the subject lands are likely to have been formed following construction/excavation within the lands and are species-poor examples. They are not highlighted for retention within the Planning Scheme and their retention is not considered feasible in this instance. The loss of the Annex I habitat is not regarded to be significant in this particular case due to the immaturity of the habitat and the lack of impact on the range at a local, county or national scale (four other springs are known within the SDZ). The report also states that hedgerow which is being lost is derelict and trees damaged is likely to have been caused by earlier adjoining construction activity. It is noted that no mitigation measures are proposed within the EclA.
- 10.8.2. The Biodiversity Officer of the planning authority states that the loss of Tufa Springs 'does not constitute a change in the current range of the EU Annex I habitat (7220)...it therefore does not impact upon the county and/or National resource for this habitat'. The Planning Authority conclude in their Chief Executive Report that whilst conditions are recommended, it is not considered appropriate to attach these that relate to tufa springs given the Biodiversity Officer's report, the Scott Cawley report, the CAAS report and also the fact that the conditions relate to an area outside the red line boundary. This all appears reasonable and acceptable.
- 10.8.3. A Screening for Appropriate Assessment, prepared by Scott Cawley, has been submitted with the application. It objectively concludes that there is no possibility of any significant effects on any European sites arising from the proposed development, either alone or in combination with other plans or projects. It is therefore their view that Appropriate Assessment is not required in this instance.

- 10.8.4. There are 11 SACs and 5 SPAs located within 15km of the subject site. The proposed development land does not overlap with or are not located directly adjacent to any European sites. The closest European site to the proposed development is Rockabill to Dalkey Island SAC (Ref. 003000), located approximately 3.7km to the east in outer Killiney Bay. There is a potential source-receptor-pathway between the proposed development and this aforementioned SAC via the surface water and foul water networks which outfall to the Irish Sea at Killiney Bay. Nonetheless, there is not considered to be any possibility of significant effects on European sites arising from the proposed development, either alone or in combination with other plans or projects.
- 10.8.5. Based on all of the information before me and having regard to the nature and scale of the proposed development and/or the nature of the receiving environment and/or proximity to the nearest European site, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.
- 10.8.6. In terms of screening for SEA, I note that the Cherrywood Planning Scheme is a plan-led development, which has been subjected to Strategic Environmental Assessment and Screening for Appropriate Assessment. The proposal is considered not to be a material contravention of the Planning Scheme and there is no increase in density from that previously included in the adopted Planning Scheme. A report, prepared by CAAS on behalf of the planning authority, in relation to consistency with the Planning Scheme's environmental parameters has been prepared and submitted with the application. This report notes, that while the application is not compliant with the requirements of the Planning Scheme, it is shown that it is consistent with general environmental components and the SEA derived objectives of the Planning Scheme. A summary of same can be obtained at Table 7 of that report. I have reviewed the proposed development under the "Criteria for determining whether a plan or programme is likely to have significant effects on the environment", which is set out in Schedule 2A of the Planning and Development Regulations, 2001 – 2018. I am of the opinion that a similar overall development outcome is anticipated as that envisaged under the original Cherrywood Planning Scheme, as amended. As the Scheme was previously screened for AA and the

conclusion was reached that it would have not been likely to have any significant effect upon the conservation objectives of any Natura 2000 sites, so now under the currently proposed amendment the same conclusion follows.

#### **10.9. Screening for Environmental Impact Assessment (EIA)**

- 10.9.1. The applicant has addressed the issue of Environmental Impact Assessment (EIA) within section 6 of the submitted Planning Statement. The Screening Assessment concludes that the EIA of the proposed development is not required. It also states that the proposed development is considered to be sub-threshold in terms of EIA having regard to Schedule 5, Part 2, 10(b)(i) of the Planning and Development Regulations 2001-2017.
- 10.9.2. The current proposal is an urban development project that would be in the built up area but not in a business district. It is therefore within the class of development described at 10(b) of Part 2 of Schedule 5 of the planning regulations, and an environmental impact assessment would be mandatory if it exceeded the threshold of 500 dwelling units or 10 hectares. The number of units proposed is 184 no. and the site area is stated as being 0.3 hectares. The proposed development would be located on greenfield lands beside existing development. The site is not designated for the protection of a landscape or of natural or cultural heritage. 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 Stage 1 Screening Report that concludes that there will be no impacts upon the conservation objectives of the Natura sites identified.
- 10.9.3. The development would result in works on zoned lands. The majority of the development would be in 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 plan-led development, which has been subjected to a full Strategic Environmental Assessment. The proposal is considered not to be a material contravention of the Planning Scheme. A report, prepared by CAAS on behalf of the planning authority, in relation to consistency with the Planning Scheme's environmental parameters has been prepared and submitted with the application. This report notes, that while the application is not compliant

with the requirements of the Planning Scheme, it is shown that it is consistent with general environmental components and the SEA derived objectives of the Planning Scheme.

- 10.9.4. On the basis of the information on the file, which I consider adequate in order to issue a screening determination, it is reasonable to conclude that there is no real likelihood of significant effects on the environment arising from the proposed development and an environmental impact assessment is not required.

## **11.0 Conclusion and Recommendation**

11.1. In conclusion, I consider the principle of residential development to be acceptable on this site. 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 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 high 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.

11.2. I consider the proposal to be generally in compliance with both national and local policy, together with relevant section 28 ministerial guidelines. I am of the opinion that it is open to the Bord to consider such a strategic housing application within a SDZ, but the Bord may disagree with this opinion. The proposal is considered to be generally consistent with the Cherrywood Planning Scheme, with the exception of height. The issue of height has been dealt with above. I accept that the proposal may reasonably be considered to be premature in the absence of the finalisation of the review of the Scheme, currently being undertaken by the planning authority. However, I have laid out above why I consider a grant of permission appropriate in this instance. Again, the Bord may disagree with my opinion in this regard. I consider the proposal 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.

## 12.0 Reasons and Considerations

Having regard to the following:

- (a) the site's location close to the settlement of Cherrywood
- (b) the planning history of the Cherrywood SDZ Planning Scheme approved by An Bord Pleanála in 2014, and to the overall scope and objectives of the approved Scheme, as amended
- (c) the policies and objectives set out in the Dun Laoghaire Rathdown County Development Plan 2016,
- (d) the Rebuilding Ireland Action Plan for Housing and Homelessness, 2016
- (e) the Design Manual for Urban Roads and Streets (DMURS), 2013
- (f) the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, 2009
- (g) the Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for New Apartments, 2018
- (h) the Planning System and Flood Risk Management (including the associated Technical Appendices), 2009
- (i) the nature, scale and design of the proposed development,
- (j) the availability in the area of a wide range of social, community and transport infrastructure,
- (k) the pattern of existing and permitted development in the area,



- (l) the planning history within the area,
- (m) the submissions and observations received, and
- (n) the report of the Inspector

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

### **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. The proposed development shall comply with all objectives of the Cherrywood Planning Scheme, 2014, as amended, save as may be authorised by this grant of permission

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

3. Prior to commencement of any works on site, revised details shall be submitted to and agreed in writing with the planning authority with regard to the following:

- (i) Proposed Type D unit at eastern end of site shall be omitted from the proposal and this area shall be suitably landscaped and incorporated into the public open space provision
- (ii) The proposed bin store which directly abuts the gable wall of the maisonette dwelling, locate to the west of the pedestrian route through the site leading from Bishops Street to Tully Park, shall be relocated to a more appropriate location
- (iii) Signage details including street names and numbering, way finding and directional signage
- (iv) Balcony glazing shall be comprised of obscure glazing

**Reason:** In the interests of proper planning and sustainable development, to safeguard the amenities of the area and to enhance permeability

4. 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 and to ensure a satisfactory standard of development.

5. 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) The roads and traffic arrangements serving the site (including 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.

(b) The roads layout shall comply with the requirements of the Design Manual for Urban Roads and Streets, in particular carriageway widths and corner radii;

(c) Pedestrian crossing facilities shall be provided at all junctions;

(d) 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,

(e) A detailed construction traffic management plan shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. The plan shall include details of arrangements for routes for construction traffic, parking during the construction phase, the location of the compound for storage of plant and machinery and the location for storage of deliveries to the site

(f) One car parking space per ten residential units shall have a functional Electric Vehicle Charging Point

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

6. 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.

7. 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.

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. Prior to commencement of development, proposals for an apartment and house numbering scheme and associated signage shall be submitted to the planning authority for agreement.

**Reason:** In the interest of orderly development

10. Prior to commencement of development, the developer shall submit to and agree in writing with the planning authority a properly constituted Owners' Management Company. This shall include a layout map of the permitted development showing the areas to be taken in charge and those areas to be maintained by the Owner's Management Company. Membership of this company shall be compulsory for all purchasers of property in the development. Confirmation that this company has been set up shall be submitted to the planning authority prior to the occupation of the first residential unit.

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

11. 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.

12. 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

13. 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 social and affordable housing in accordance with the requirements of section 96 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 (other than a matter to which section 97(7) applies) may be referred by the planning authority or any other prospective party to the agreement to the Board 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.

14. Prior to commencement of development, a phasing programme for the development shall be submitted to the planning authority for agreement.

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

15. A plan containing details for the management of waste within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials 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. A Final Site Specific detailed Construction and Environmental Management Plan (CEMP) shall be submitted, for the written agreement of the planning authority at least 5 weeks in advance of site clearance and site works commencing

**Reason:** To protect the environment during the construction phase and also to avoid impacts on water quality, fisheries, sustainable drainage and flooding

17. The developer shall pay to the planning authority a financial contribution in respect of 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.

18. 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 planning authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the planning 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 the Board for determination.

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

19. 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.

---

Lorraine Dockery  
Senior Planning Inspector

8<sup>th</sup> April 2019