



An
Bord
Pleanála

Inspector's Report ABP303695-19

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| Development | 43 duplex units and apartments in 4 blocks, 69 car parking spaces, bike parking, public open space on 1.39ha. |
| Location | Riverside Cottage, Kilgobbin Road, Newtown Little, Stepside, County Dublin. |
| Planning Authority | Dun Laoghaire Rathdown County Council |
| Planning Authority Reg. Ref. | D18A/0074 |
| Applicant(s) | Willian and Douglas Richardson |
| Type of Application | Permission |
| Planning Authority Decision | Grant with conditions |
| Type of Appeal | Third Party v Grant |
| Appellant(s) | (1) Sandyford Hall Residents Assoc. (2) Nicola Stapleton |
| Observer(s) | Joe Glackin, Sylvia & Julian Dockery, Anne Carroll, An Taisce |
| Date of Site Inspection | 24 th June 2019 |
| Inspector | Hugh Mannion |

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2.0 Site Location and Description

- 2.1. The site is irregularly shaped and comprises two pasture fields and a house/garden accessed off Kilgobbin Road in Stepside, County Dublin. The site has a stated area of 1.39ha. The south-eastern boundary is along Kilgobbin Road, the north-eastern boundary is about 1/3 along the boundary wall with Kilgobbin House (a protected structure) and 2/3 along the adjoining housing development, Sandyford Hall. The western boundary adjoins a small area of public open space and a road – Belarmine Avenue. There are two schools and housing on Belarmine Avenue close to the site boundary. The southern boundary adjoins the site of Thornberry House, (a protected structure) and, behind that, the ruins of Kilgobbin Castle.
- 2.2. The Belarmine development is a mix of two/three storey houses, duplexes and four storey residential blocks which is still being built out. Sandyford Hall is an older development (approximately dating from the 1990s). The area is outside the M50 and is served by the Luas with the closest stop at ‘The Gallops’.

3.0 Proposed Development

- 3.1. The proposed development comprises;
- the erection of 4 residential blocks with 43 units in total. There are 9 one bed units, 19 two bed units and 15 three bed units. Demolition of Riverside Cottage (a habitable house of 158m²).
 - There will be a new vehicular access through Belarmine Vale to the west,
 - A two-way pedestrian/bicycle path connecting Belarmine Vale in the west to Kilgobbin Road to the east.
 - 69 car parking spaces (37 at source and 32 in a basement),
 - 56 bike spaces in two lots,
 - 986m² of public open space.

At Riverside Cottage, Kilgobbin Road, Newtown Little, Stepside, County Dublin.

4.0 Planning Authority Decision

4.1. Decision

The planning authority decided to grant permission with conditions.

Condition 22 required that the greenway along the southern boundary be excluded from public open space.

Condition 34 required a supplementary contribution towards Luas line B.

4.2. Planning Authority Reports

4.2.1. Planning Reports

4.2.2. Initially the planning authority sought further information as follows. The applicant should;

- Submit a revised archaeological assessment.
- Submit a revised Flood Risk Assessment (FRA) reflecting the requirements of Appendix 13 of the County Development Plan. The revised FRA should include an overland flood route plan.
- Submit amended surface water drainage proposals based on a standard average annual rainfall (SAAR) figure of 975 rather than 750. Explain the runoff rate of 0.9 and illustrate the surface water storage and contributing areas on a drawing.
- Submit additional details of the green roof.
- Confirm that the isolator row is optimally located and comment on the impact of the high water table on site.
- Submit an architectural heritage impact report for Kilgobbin House.
- Replace the proposed 1.8m wall/railing on the southern and eastern boundary of block 4 with softer landscaping. Replace hedge number 6 with a hedge of native species. Provide additional soft landscaping at the Kilgobbin Road boundary.

- Demonstrate that refuse collection/emergency vehicles and furniture delivery vehicles can access the proposed development.
- Submit a quality audit demonstrating compliance with DMURS.
- Demonstrate compliance with the NTA standards for pedestrian and cycle links through the site.
- Demonstrate that the ramp to the underground parking complies with section 8.2.4.10 of the County Development Plan.
- Submit a drawing assigning parking spaces to units. Provide a minimum of 6 surface level visitor car parking spaces.
- Submit drawings to demonstrate compliance with the planning authority's taking in charge standards including road construction standards, on-site casting of concrete kerbs, all underground services are to be located under the concrete areas.
- Submit a street lighting plan.
- Amend block 3 to turn the entrance doors towards the public open space.
- Clarify which public open space is to be taken in charge.
- The applicant should consider amendments to the public open space.
- Re-consider if tree number 505 (a beech) can be retained.
- Revise the landscaping scheme to include larger tree species.

4.3. After the submission of further information clarification was sought on the following points;

- The attenuation storage volumes proposed are incorrectly calculated and should be recalculated and drawings updated accordingly.
- The FRA remains inadequate and not in accordance with appendix 13 of the County Development Plan.
- Revise the landscaping plan to include additional suitable native tree species. Additional hard/soft landscaping and playground location.

- Demonstrate that the ramp to the underground parking complies with section 8.2.4.10 of the County Development Plan.
- Clarify how pathways in the public open space could be appropriately managed/maintained by the planning authority.

4.3.1. **Other Technical Reports**

4.3.2. **The Parks and Landscape Services** reported (20 March 2018) tree number 505 (a beech) could be retained, revise the landscaping scheme to include larger tree species. Replace the proposed 1.8m wall/railing on the southern and eastern boundary of block 4 with softer landscaping. Replace hedge number 6 with a hedge of native species. Provide additional soft landscaping at the Kilgobbin Road boundary.

4.3.3. A second report (27th August 2018) stated that much of the public open space would act as flood plain and recommended further information and conditions in the event of a grant of planning permission.

4.3.4. **Irish Water** reported (17th March 2018) no objection.

4.3.5. **Conservation Office** sought an architectural impact assessment.

4.3.6. **Drainage Planning reported** (16th March 2018) seeking an amended FRA in accordance with appendix 13 of the county development plan, submit an overland flood route plan, amend the SAAR to 950, justify an assumption of 0.9 run-off rate, provide details of the green roof, comment on the location of the isolator row and the impact on the attenuation system of a high water table, show the contribution areas for surface water attenuation calculations.

4.3.7. Another report (28th August 2018) raised issues of clarification of the further information.

4.3.8. **Transport Planning** (16th March 2018) requested that the applicant demonstrate that refuse collection/emergency vehicles and furniture delivery vehicles could access the proposed development, show a proposed east/west road through the site, provide a quality audit showing compliance with DMURS, demonstrate compliance with the NTA standards for pedestrian and cycle links through the site, demonstrate that the ramp to the underground parking complies with section

8.2.4.10 of the County Development Plan, submit a drawing assigning parking spaces to units, provide a minimum of 6 surface level visitor car parking spaces. Submit drawings to demonstrate compliance with the planning authority's taking in charge standards including road construction standards, on-site casting of concrete kerbs, all underground services to be located under the concrete areas and submit a street lighting plan.

An Taisce commented on the impacts on neighbouring protected structures and in particular the boundary wall of Kilgobbin House.

5.0 Planning History

5.1. Under PL06D.217333 permission was granted on appeal for 8 houses and 26 apartments on this site with the same basic layout.

6.0 Policy and Context

6.1. National Policy

6.2. The **National Planning Framework** (2018) sets out a number of national objectives.

- Objective 3c is to deliver at least 50% of new houses in the city/suburbs of Dublin, Cork, Galway, Limerick and Waterford.
- Objective 11 is to favour development that can encourage more people to live or work in existing settlements.
- Objective 27 is to prioritise walking and cycling accessibility to existing and proposed development.
- Objective 33 is to prioritise the provision of new homes that can support sustainable development.
- Objective 35 is to increase residential density in settlements.

6.3. The **Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas** (2009) sets out general principles of sustainable development and residential design, including the need to prioritise walking, cycling and public transport over the use of cars, and to provide residents with quality of life in terms of amenity, safety and convenience. Section 5.11 states that densities for

housing development on outer suburban greenfield sites between 35 and 50 units/ha will be encouraged, and those below 30 units/ha will be discouraged. A design manual accompanies the guidelines which lays out 12 principles for urban residential design.

- 6.4. The **Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for New Apartments (2018)** contains several specific requirements with which compliance is mandatory. The minimum floor area for one-bedroom apartments is 45m², for two-bedroom apartments it is 73m² and for three-bedrooms it is 90m². Most apartments in new schemes of more than 10 must exceed the minimum floor areas by at least 10%. Requirements for individual rooms, for storage and for private amenity space are set out in the appendix to the guidelines, including a requirement for 3m² storage for one-bedroom apartments, 6m² for two-bedroom apartments and 9m² for three-bedroom apartments. In suburban locations a minimum of 50% of apartments should be dual aspect. Ground level apartments should have floor to ceiling heights of 2.7m.
- 6.5. The **Guidelines for Planning Authorities on Urban Development and Building Heights (2018)** state (section 3.6) that development in suburban locations should include an effective mix of 2, 3 and 4 storey development. SPPR 4 is that planning authority must secure a mix of building heights and types and the minimum densities required under the 2009 guidelines in the future development of greenfield and edge of city sites
- 6.6. The **Design Manual for Urban Roads and Streets (DMURS 2013)** sets out (Section 1.2) a policy that street layouts should be interconnected to encourage walking and cycling and offer easy access to public transport. Section 3.2 identifies types of street. Arterial streets are major routes, link streets provide links to arterial streets or between neighbourhoods, while local streets provide access within communities. Section 3.3.2 recommends that block sizes in new areas should not be excessively large, with dimensions of 60-80m being optimal and 100m reasonable in suburban areas. However maximum block dimensions should not exceed 120m. Section 4.4.1 states that the standard lane width on link and arterial streets should be 3.25m, while carriageway width on local streets should be 5-5.5m or 4.8m where a shared surface is proposed.

6.7. The **Planning System and Flood Risk Management Guidelines for Planning Authorities (DOEH&LG 2009)**, sets out the methodology for considering flood risk in the context of development management. The guidelines distinguish three flood zones; zone A where there is a high probability of flooding and only flood compatible development (for instance docks, marinas, amenity open space) is appropriate. Zone B is at moderate risk of flooding and is where highly vulnerable uses (hospitals, care homes, houses and strategic transport and utilities) should be avoided. Zone C has a low probability of flooding and housing and other vulnerable uses are appropriately located in this zone.

6.8. **Development Plan**

6.9. The site is zoned objective A – ‘to protect and or improve residential amenity’ and objective F ‘to preserve and provide for open space with ancillary active recreational amenities’ in the **Dun Laoghaire Rathdown County Development Plan 2016-2022**.

6.10. **Natural Heritage Designations**

Not relevant.

6.11. **EIA Screening**

6.12. Having regard to nature of the development comprising a significantly sub-threshold residential development on appropriately zoned lands where public piped services are available 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.

7.0 The Appeal

7.1. Grounds of Appeal

- The site is liable to floods. Flooding occurs in the rear gardens of houses on Sandyford Hall Drive (numbers 13, 15 and 17) and Sandyford Hall Close (9 and 14).
- The apartments will be too high when compared to the existing houses on Kilgobbin Road and in Sandyford Hall estate.
- The site is within a recorded monument constraint area.
- The proposed development will give rise to traffic congestion on Belarmine Vale where there are three schools.
- The site is in an area designated as linear greenway in the Stepside Area Action Plan.
- There is a lack of capacity in the transport infrastructure including the Luas.
- It is not necessary to demolish Riverside House and this aspect of the application has not been properly considered by the planning authority. It is possible to provide adequate public open space without demolition of Riverside House.

7.2. Applicant's Response

- The applicant submitted further information demonstrating that the proposed development would not give rise to flooding in a manner which satisfied the planning authority.
- The duplex apartments are 2/3 storeys while the apartment block is 4 storeys. These heights satisfy the building height strategy set out in appendix 9 of the County Development Plan and the planning authority agreed that the site has capacity to absorb the proposed development.
- The site is in an area previously identified as an area of archaeological interest in the Stepside Area Action Plan which adopted into the County Development Plan 2000 – that AAP has since become redundant. The

application included an archaeological assessment report which recognised that Kilgobbin Castle is located outside the southern boundary of the site. The planning authority imposed a condition requiring protection of any archaeological remains on site which is acceptable to the applicant.

- The traffic arising from the proposed development will have only a marginal impact on traffic volumes in the wider area.
- The pedestrian/bike link along the southern site boundary is required by Specific Local Objective 70 in the current County Development Plan.
- The site is within 500m of a Luas stop and quality bus corridor.
- The Board previously granted planning permission for the demolition of Riverside Cottage.

7.3. Planning Authority Response

- The appeals raise no new issues.

7.4. Observations

7.5. Observations were received from An Taisce, Joe Glackin, Sylvia & Julian Dockery, Anne Carroll/Educate Together. These submissions may be summarised as follows;

- The proposed development presents a flood risk which was not properly assessed by the planning authority and should not be subject to a compliance condition. The proposed development will endanger Kilgobbin House by giving rise to flooding.
- There have been problems with the capacity of the foul sewer system serving the site and adjoining area.
- The boundary wall of Kilgobbin House (a protected structure) will face onto public open space and be subject to interference from the public.
- The space along the southern boundary should not be left as a possible vehicular route but be conditioned as public open space (An Taisce's point).
- There should be a vehicular access to Kilgobbin Road (Stepaside Educate Together's point).

- Construction traffic would endanger public safety particularly of school children. Part of Belarmine Vale is a one-way system.
- The proposed development may give rise to disruptive noise levels in the adjoining schools.

7.6. Further Responses

No further responses.

8.0 Assessment

8.1. The principal planning issues in the present case are;

1. development plan policy,
2. density,
3. apartment quality standards,
4. building height,
5. traffic Safety,
6. foul sewer capacity,
7. future road layout,
8. Architectural Heritage,
9. Archaeological Heritage,
10. Flooding,
11. Riverside Cottage,
12. AA screening.

8.2. Policy Context.

- 8.3. The proposed development reflects the general policy provisions in the National Planning Framework to increase housing supply and locate at least 50% of new housing in the suburbs of major cities.
- 8.4. The application site has two zoning objectives; A and F and is split between maps 6 and 9 on the County Development Plan zoning maps. The eastern end of the site and a strip along the southern boundary is zoned F 'to preserve and provide for open space with ancillary active recreational amenities.' The western element of the site is zoned A 'to protect and or improve residential amenity'. The proposed layout reflects these zoning objectives.
- 8.5. I conclude that the proposed development accords with the zoning provisions of the current County Development Plan.
- 8.6. **Density**
- 8.7. Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (DOEHLG 2009) advise that minimum residential densities in the range of 30-50 units per ha are appropriate in proximity to larger towns and cities and close to quality bus corridors, the Luas and Dart. The County Development Plan (objective RES3) states that 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, with the need to provide for sustainable residential development generally in accordance with national guidance.
- 8.8. The application site is close to the M50 and the Luas Line B with a tram stop at The Gallops. The application site is included in the supplementary development contribution scheme lands for the Luas green line extension as provided for in the planning authority's Section 49 Supplementary Development Contribution scheme. The appropriate density therefore is 50 units/ha. The proposed density is 31 units/ha but site-specific considerations apply such as; maintaining the eastern and southern sections of the site in recreational use as required by the zoning objective, the accommodation compensatory flood plain and surface water attenuation works, the impact of the ESB line wayleave generally along the northern edge (for the ESB wayleave impact see William Douglas Richardson site location map drawing number

16-139-PL01.001). Having regard to these restrictions I consider that the density of the proposed development is acceptable.

8.9. **Apartment Quality.**

8.10. The Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for New Apartments contain several requirements for new apartments. The minimum floor area for studios is 37m²; 45m² for one-bedroom apartments, 73m² for two-bedroom apartments and 90m² for three-bedrooms. Most of proposed apartments in schemes of more than 10 must exceed the minimum by at least 10%. Requirements for individual rooms, for storage and for private amenities space are set out in the appendix to the Guidelines including a requirement for 3m² storage for one-bedroom apartments, 6m² for two-bedroom apartments and 9m² for three-bedroom apartments. In suburban locations a minimum of 50% of apartments should be dual aspect. Ground level apartments should have floor to ceiling heights of 2.7m.

8.11. All the apartments exceed the minimum floor areas and 10% exceed the minimum standards. All provide private open space in accordance with the current guidance. Storage is adequate and more that 50% of the units are dual aspect. The floor to ceiling heights at ground floor level in all the blocks is 2.7m. I conclude therefore that the proposed units meet the guidance standards.

8.12. **Building Height**

8.13. In the Guidelines for Planning Authorities on Urban Development and Building Heights (December 2018) Section 3.6 states that development in suburban locations should include an effective mix of 2, 3 and 4 storey development. The proposed buildings are 3 stories at the western end to four at the eastern end of the site. Having regard to the Guidelines and site context I conclude that these heights are acceptable.

8.14. **Traffic Safety**

- 8.15. The appeal makes the point that the proposed development will give rise to traffic congestion and traffic hazard.
- 8.16. The proposed development has vehicular access only through the Belarmine development to the west which in turn has a junction with the Enniskerry Road (R117) which links Kiltiernan village to Stepside. The Belarmine development is largely three/four storey residential uses. Vehicular access will be over Belarmine Vale which currently accommodates housing and two schools (Stepside Educate Together and Gaelscoil Taobh an Coille). The planning authority's Transport Planning section sought further information and the applicant responded to that request in a manner which satisfied the planning authority.
- 8.17. The speed limit within Belarmine estate is 50kms per hour. There will be some disruption to traffic within the estate in the construction phase, but I recommend a condition requiring submission of a construction management plan that will allow the planning authority to manage construction traffic in a manner so as to minimise traffic disruption. The applicant submitted a Road Safety Audit (received by the planning authority as further information on 7th August 2018) that pointed out a number of issues (for example the poor horizontal and vertical alignment of Kilgobbin Road in the vicinity of the proposed junction with the new cycleway/walkway through the site is significant but outside the applicant's control) and proposed mitigation measures. In relation to the long-term impacts the applicant estimated that 18 trips out and 9 trips into the development would be generated by the proposed apartments and duplexes at peak times. The planning authority's Transport Planning section reported (see report dated 16th March 2019) on this aspect of the application and, in general, agreed with the applicant's figures.
- 8.18. Having regard to the relatively small number of units (43) proposed, the 50kph speed limit that applies in Belarmine and the good road conditions (including footpaths, public lighting, dedicated set down and segregated entrance/exit for the schools) I conclude that the proposed development will not endanger public safety by reason of traffic hazard.

8.19. **Foul Sewer Capacity**

- 8.20. An observer makes the point that there are capacity problems in the local foul sewer. I note the report from Irish Water (the responsible authority for foul water) that there is no objection to the proposed development on grounds of foul effluent disposal. The AA screening report (see Scott Cawley report submitted with the application) states that the foul sewer will eventually drain to the Shanganagh WWTP which has adequate capacity to treat the expected additional loading.
- 8.21. Having regard to the foregoing I conclude that there is capacity in the public sewerage system serving the proposed development.

8.22. **Future Roads**

- 8.23. Conflicting views are expressed in the correspondence received by the Board in relation to the possibility of future vehicular access through the application site linking Belarmine Vale to Kilgobbin Road. There is an objective in the county development plan (Objective No 70) which seeks a pedestrian/bicycle path link to facilitate access to the Luas B1 line, but no objective refers to a vehicular link. The application has provided for a pedestrian/bicycle path link through the site from Belarmine Vale to Kilgobbin Road (as widened in accordance with the planning authority's FI request).
- 8.24. Condition 22 of the grant of permission states that the "linear greenway and associated strip of green space running along the southern boundary of the site and the green space to the south of the apartment block shall not be conditioned open space".
- 8.25. It is not clear that condition 22 meets the tests for necessity and reasonableness required of planning conditions by the Development Management Guidelines. A vehicular link would require a separate planning application and it may be that the condition anticipates a roads objective which is not provided for in the current County Development Plan. Therefore, I recommend that the Board determine the present application without attaching a similar condition.
- 8.26. I note in this context that the planning authority sought further information in relation to the provision of public open and the Parks and Landscaping subsequently recommend a grant of permission.

8.27. Architectural Heritage.

- 8.28. Kilgobbin House is a protected structure on the adjoining site to the north of the application site with an access onto Kilgobbin Road. Thornberry House is a protected structure on the adjoining site to the south of the application site with an access onto Kilgobbin Road. The planning authority's conservation office reported that the proposed development would be visible from within the curtilages of these structures and that the application had not demonstrated that the proposed development had been designed to reflect the presence of these structures. In response to the request for additional information the applicant submitted an architectural conservation report (see Cathal Crimmins Architect's report received by the planning authority on the 7th August 2018).
- 8.29. The Crimmins Report concluded that demolition of Riverside House (not a protected structure) would not give rise to any loss of architectural merit, that a new access through the Kilgobbin Road boundary would have no negative architectural conservation impact since the boundary was of 20th century construction, trees will be retained along the boundaries and additional planting is proposed to minimise impact on houses to the south (including Thornberry) and to the north (including Kilgobbin House). The planning authority's conservation office reviewed the further information and reported no further objection to the proposed development.
- 8.30. Nonetheless An Taisce commented (see An Taisce letter dated 20th August 2018 and received by the planning authority on same date) that the 'Crimmins Report' did not consider the condition of the Kilgobbin House boundary wall along the northern boundary of the application site or make recommendations in relation to its future maintenance. An observation has been received by the Board in relation to this boundary wall between Kilgobbin House and the site expressing the view that the proposed development will expose this wall to vandalism.
- 8.31. The Ballyogan stream is culverted for about two thirds of its length along the northern boundary and is uncovered from the beginning of the Kilgobbin House site to where it passes out of the site under the public road. There are no in-stream works proposed in the Ballyogan stream nor works to the Kilgobbin House boundary wall which is north of the stream. I note the planning authority's conservation report and the Crimmins architectural heritage assessment. Having regard to the site

layout and the reports on file I consider that the wall's conservation interests are best served by its remaining undisturbed by protective works and I conclude therefore that the proposed development is acceptable from an architectural conservation perspective.

8.32. Archaeology

- 8.33. The appeal makes the point that the application site is within a zone of archaeological interest in the Stepside Area Action Plan. The applicant makes responded that the Stepside Area Action Plan was a non-statutory plan originating in 2000 and has since been superseded by the current County Development Plan. I agree with this point.
- 8.34. The application site shares a boundary with site of the Kilgobbin Castle to the south. The Department of Culture, Heritage and the Gaeltacht (see letter dated 28th February 2018 received by the planning authority 28th February 2018) recommended that an archaeological impact assessment (AIA) would be carried out by a suitably qualified archaeologist, be based on a literature review and suitable test trenching and the resulting report should be submitted to the planning authority and the Department. The further information request incorporated these comments at point 1.
- 8.35. The applicant submitted an AIA (see Courtney Deery report) which concluded that archaeological remains have previously been identified on site and that further remains may lie undiscovered. The advice, however, was that further exploratory trenching is not the optimum way to proceed but rather that topsoil be removed in those areas proposed for development to expose in-situ archaeological remains.
- 8.36. No further comments were received from the department and An Taisce commented that the advice in the AIA should be reflected in the planning authority's conditions.
- 8.37. I conclude that the applicant's archaeological advice is the more conservative approach since it has been demonstrated previously that there are remains in-situ on site and only those areas which are required to be disturbed should be subject to further works which would allow for identification and reporting/recording as appropriate. I recommend that that this issue may be addressed by way of a condition as set out in the draft order below.

8.38. **Flooding**

- 8.39. The appellants and observers make the case that the site is liable to floods and will impact on houses on Sandyford Hall Drive, Sandyford Hall Close and Kilgobbin House.
- 8.40. The Ballyogan stream flows above ground along the northern edge of public open space across Belarmain Avenue from the Gaelscoil. It is culverted from the north-western corner of the site to the point where the internal hedge within the site joins the northern boundary at the rear of the last house on Sandyford Hall Close. Thereafter the stream is open and flows along the circa 2m high rubble boundary wall separating the application site from the grounds of Kilgobbin House. When it exits the application site it flows south east under Killgobbin Road.
- 8.41. The Planning System and Flood Risk Management Guidelines for Planning Authorities (DOEH&LG 2009), sets out the methodology for considering flood risk in the context of development management. The guidelines distinguish three flood zones; zone A where there is a high probability of flooding and only flood compatible development (for instance docks, marinas, amenity open space) is appropriate. Zone B is at moderate risk of flooding and is where highly vulnerable uses (hospitals, care homes, houses and strategic transport and utilities) should be avoided. Zone C has a low probability of flooding and housing and other vulnerable uses are appropriately located in this zone.
- 8.42. The application includes flood risk assessment (see FRA by Waterman Moylan Consulting Engineers) which identified the source of any flooding within the site as the Ballyogan stream. The more vulnerable uses are the apartment block at the eastern end and its car park. The FRA states that the site is at low risk of flooding. In the 1:1000-year event scenario the expected flood levels would be 102.8m OD at the basement car park entrance which is constructed at 103.20 OD and therefore has a freeboard of 400mm. The lowest apartment floor level is 104m OD which is 1200mm above a 1:1000-year flood event. The FRA concludes that there is a low risk of flooding of the basement/residential uses which places the site in flood zone C where residential uses are generally acceptable.

- 8.43. The planning authority's Drainage Planning division noted that the submitted FRA related to approximate site levels and not the proposed contours on site. The applicant was asked to;
- a) submit plans and cross sections showing the annual exceedance probability (AEP) for both the existing site levels and the proposed site levels after development.
 - b) An overland flow route in the event of blockage in the surface water drainage system and measures to prevent water entering the underground car park.
 - c) Submit amended surface water drainage proposals based on a standard average annual rainfall (SAAR) figure of 975 rather than 750. Explain the runoff rate of 0.9 and illustrate the surface water storage and contributing areas on a drawing.
- 8.44. The applicant submitted two drawings in response to the request for further information. Drawing 17-091-P115 illustrated the predicted flood impact on the existing topography. Drawing 17-091-P116 illustrated the predicted flood impact on the proposed topography and extent relative to the basement/car parking level of the apartment block. Drawing 17-091-P116 also shows an additional area of 110m³ to provide compensatory flood plain to make up for the original flood plain lost in the recontouring of the site required by the proposed development.
- 8.45. The planning authority remained unconvinced that the modelling on which the compensatory flood area based was accurate. The applicant, by way of clarification of further information, submitted an additional report (see RPS hydraulic modelling report submitted 20th December 2018 and the amended Waterman Moylan drawing 17-091-P116 Rev B) which demonstrated that the modelling underpinning the proposed layout of the development and compensatory measures was reliable. The planning authority (see final drainage planning report dated 15th January 2019) agreed with the modelling underpinning the site layout and agreed, subject to conditions, that the proposed development would not give rise to additional flooding upstream or downstream of the application site.
- 8.46. The applicant submitted a drawing (number 17-091-P118) which shows an overland flow route for surface water when the surface water drainage system becomes blocked. The flow route falls to the northeast of the site reflecting the natural

topography of the site. Surface water will preferentially flow onto public open space and away from residential units and the basement car park. The car park entrance will have a freeboard of 400mm above the 1:1000-year flood event maximum. The planning authority reviewed this information and made no further objection on this point.

- 8.47. The planning authority reviewed the further information and considered that rate of surface water runoff was too fast and that the capacity of the attenuation tank might be insufficient (see drainage division report dated 28th August 2018). The applicant as clarification of information submitted (see especially Item 1 pages 3, 4 and 5 of the Waterman Moylan report submitted) revised run off rates and attenuation tank size for the upper limit of annual rainfall of 975, relocated the attenuation tank away from the flood plain and illustrated these amendments on a new drawing (see Waterman Moylan drawing 17-091-P120 Revision B) The planning authority reviewed the amended attenuation tanks (capacity and location) and reported (final drainage section report 15th January 2019) that subject to detailed conditions it had no further objections to the proposed development.
- 8.48. Appendix 13 of the County Development Plan comprises the strategic flood risk assessment for Dun Laoghaire Rathdown. Section 4.10.2 requires, inter alia, that where flood plain is being lost that it be compensated for within the development, on land owned by the applicant and close to the lost/altered area and provided for before the alteration are made to facilitate the proposed development. The Flood Risk Assessment Guidelines make the point that a justification test (see paragraph 5.15) is required where development is proposed in areas of high or moderate flood risk (zones A and B). I conclude that this criterion does not apply in the present case.
- 8.49. The net point in relation to flooding is the potential for the proposed development to give rise to flooding up or down stream of the proposed development or of the new development itself. I carried out a walkover/visual inspection of the entire site, Kilgobbin Road to the west, Belarmine Vale to the east and the adjoining Sandyford Hall development to the north. There was some on-site surface water ponding to the east in the area of the proposed compensatory flood plain which confirms the planning authority's view that there is a high-water table in this area. There are surface water drains at the end of Sandyford Hall Drive which were functioning properly despite heavy rain the in Dublin area in the previous twenty-four hours.

Having regard to the material submitted with the application and appeal, the reports of the planning authority and the observable features on site I am satisfied that the proposed development will not obstruct the culverted section of the Ballyogan stream or the open section of stream along the boundary with Kilgobbin House. The calculations underpinning the provision for flood plain and of the attenuation tank are robust and the freeboard proposed for the underground car parking is adequate. I conclude that the proposed development will not give rise to flooding upstream or downstream of the proposed development or of the new development.

8.50. Riverside Cottage

8.51. Riverside House is the bungalow on the western end of the site accessing Kilgobbin Road. The appeal makes the point that the demolition of Riverside House has not been properly considered by the planning authority and that it is unnecessary to demolish the house to construct the proposed development.

8.52. The attenuation tanks and recontoured public open space at the eastern end of the application site are both partially in the footprint of the existing bungalow. I conclude that this area must be made available for these elements of the proposed development one of whose benefits will be the provision of a higher density of housing on zoned and serviced lands.

8.53. I conclude therefore the demolition of the existing house is justified and in the interests of the proper planning and development of the area.

8.54. Appropriate Assessment Screening

8.55. The application included an appropriate assessment screening report (Scott Cawley report received with the application on the 26th January 2018). The report identifies 14 conservation sites within a 15kms radius of the application site and sets out their conservation objectives. The Special Areas of Conservation are; South Dublin Bay SAC (000210), the Wicklow Mountains SAC (002122), Knocksink Wood SAC (000725), Ballyman Glen SAC (000713), Rockabill to Dalkey Island SAC (003000), North Dublin Bay SAC (000206), Glenasmole Valley SAC (001209), Bray Head SAC (000714), Howth Head SAC (000202), Glen of the Downs SAC (000719). The Special Protection Areas are South Dublin Bay and River Tolka Estuary SPA (004024), North Bull Island SPA (004006), Dalkey Island SPA (004127) and Wicklow Mountains SPA (004040). The screening report states that the foul water will drain to

Shanganagh WWTP where there is excess capacity. Surface water will pass through the on-site surface water collection network and attenuation tank wherein potential contaminants will be contained.

8.56. I note the material contained and the conclusion of the AA screening report submitted by the applicant. I note the other reports and drawings submitted with the application especially in relation to surface water drainage. In addition, the ecological impact assessment (see additional report from Scot Cawley submitted with the initial application) sets out good practice guidelines for preventing contaminants entering the surface water system during construction phase. The site ultimately drains to the sea at Loughlinstown in an area which is not within a European site and there are no other hydrological connections between the application site and any other European site. Applying the source-pathway-receptor model I conclude that the proposed development will not give rise to emissions which would negatively impact the environment.

8.57. Therefore, it is reasonable to conclude that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on the European Sites within a 15kms radius of the application site or any other European site, in view of the sites' Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

8.58. **Recommendation**

8.59. I recommend a grant of planning permission.

9.0 **Reasons and Considerations**

The site of the proposed development benefits from two zoning objectives in the Dun Laoghaire Rathdown County Development Plan 2016 to 2022; to preserve and provide for open space with ancillary active recreational amenities and to protect and or improve residential amenity. The layout of the proposed development reflects these zoning objectives.

Having regard to;

- (a) The National Planning Framework which seeks to deliver at least 50% of new houses in the city/suburbs of Dublin, Cork, Galway, Limerick and Waterford.
- (b) The Planning System and Flood Risk Management Guidelines for Planning Authorities (Department of Environment, Heritage and Local Government 2009),
- (c) the standards for new apartment developments set out in the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (Department of Housing, Planning and Local Government March 2018).
- (d) The Guidelines for Planning Authorities on Urban Development and Building Heights (Department of Housing, Planning and Local Government 2018),
- (e) the zoning objectives for the site set out in the current County Development Plan,

it is considered that, subject to compliance with the conditions set out below, proposed development would not give rise to flooding within the application site or on adjoining lands, would not adversely affect a protected structure or archaeological remains, would not be prejudicial to public health or endanger public safety by reason of traffic hazard, would not seriously injure the residential amenity of property in the vicinity or future residents of the proposed development and would, otherwise, be in accordance with the current County Development Plan and 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 7th day of August 2018 and on the 20th day of December 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. 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.

3. The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, access road to the service area and the underground car park shall be in accordance with the detailed standards of the planning authority for such works.

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

4. The development shall be carried out on a phased basis, in accordance with a phasing scheme which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of any development.

Reason: To ensure the timely provision of services, for the benefit of the occupants of the proposed dwellings.

5. Details of the materials, colours and textures of all the external finishes to the proposed dwellings 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. 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.

7. Public lighting shall be provided in accordance with a scheme, [which shall include lighting along pedestrian routes through open spaces] details of which shall be submitted to, and agreed in writing with, the planning

authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any house.

Reason: In the interests of amenity and public safety.

8. The areas of public open space shown on the lodged plans shall be reserved for such use and shall be contoured, soiled, seeded, and landscaped in accordance with the detailed requirements of the planning authority. This work shall be completed before any of the apartments are made available for occupation and shall be maintained as public open space by the developer until taken in charge by the local authority.

Reason: In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.

9.
 - (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.

10. Site development and building works shall be carried only out between the hours of 08.00 to 19.00 Mondays to Fridays inclusive, between 08.00 to 14.00 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.

11. (a) A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities for each apartment unit 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.

- (b) This plan shall provide for screened communal bin stores, the locations and designs of which shall be included in the details to be submitted.

Reason: In the interest of residential amenity, and to ensure the provision of adequate refuse storage.

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

Reason: In the interests of urban legibility.

13. The construction of the development shall be managed in accordance with a Construction and Environment 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:

- a) Location of the site and materials compounds including areas identified for the storage of construction refuse;
- b) Location of areas for construction site offices and staff facilities;
- c) Details of site security fencing and hoardings;
- d) Details of on-site car parking facilities for site workers during the course of construction;
- e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;
- f) Measures to obviate queuing of construction traffic on the adjoining road network;
- g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- h) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;
- i) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- j) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
- k) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- l) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

A record of daily checks that the works are being undertaken in accordance with the Construction and Environment Management Plan shall be kept for inspection by the planning authority.

Reason: In the interest of amenities, public health and safety.

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

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

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

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

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

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

15. Detailed measures in relation to the protection of bats shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. These measures shall be implemented as part of the development.

Reason: In the interest of wildlife protection.

16. 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 in dispute (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 for the area.

17. 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 roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion 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.

18. 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. The contribution shall be paid prior to the 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 the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 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.

19. 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. The contribution shall be paid prior to the 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 the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 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.

Hugh Mannion
Senior Planning Inspector

25th June 2019