



An
Bord
Pleanála

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

Inspector's Report ABP-304288-19

Strategic Housing Development

192 no. apartments to replace and supersede the 56 no. apartments permitted under Reg.Ref: D15A/0247 and PL06D.246601 and associated site works.

Location

Clay Farm (Phase 1C), Ballyogan Road, Dublin 18.

Planning Authority

Dun Laoghaire Rathdown County Council

Applicant

Viscount Securities.

Prescribed Bodies

National Transport Authority
Transport Infrastructure Ireland.

Observer(s)

1. Crispin Wall
2. Daryl Bolger & Grace Mc Donnell
3. Glenn Whelan
4. Richard Murphy
5. Robert Burke
6. Tom O' Connor et al.

Date of Site Inspection

08th of July 2019.

Inspector

Karen Hamilton

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 subject site is located along Ballyogan Road between junction 14 and 15 of the M50 and directly opposite the Gallops LUAS line. The site forms part of the first permitted phase of the Clay Farm development – Phase 1 C (0.93ha) which is located to the western extremity of the development site. Construction works are currently underway on the site and the subject area is currently utilised as a construction compound.

2.2. Elmfield and Castle Court apartment development are located to the west. Ballyogan stream traverses lands to the south of the development site within an area of open space.

3.0 Proposed Strategic Housing Development

The applicant is proposing a residential development comprising of 192 no residential units as summarised below:

Unit Type	Block G	Block E 7
Studios	12	0
1 bed	36	34
2 bed	77	33
Total	125	67

4.0 Planning History

The most relevant history associated with the site is noted as follows:

06D.246601 (Reg Ref D15A/0247)

A 7 year permission granted for 425 units on 13.63ha of development site located along the Ballyogan Road. The permitted density was 65 units per hectare. The grant of permission details 39 no. conditions. An error occurred in the ordering of conditions and condition no. 37 was re-ordered as 37a and 37b and refer to Part V agreement and provision of a bond respectively.

Condition 5 (a) and (b) refers to the 25 metre wide Clay Farm Loop Road reservation which shall be maintained free from development to facilitate the completion of the Clay Farm Loop Road as a public road. Taking in charge is to also include this section of road.

Condition 7 set out that

“When required by the planning authority the developer shall –

(a) construct the westernmost access from Phase 1c to the Clay Farm Loop Road/Elmfield Road in accordance with DBFL drawing number 133094-2020-C and drawing number 133094-2040-A, and

(b) remove the temporary road linking Phase 1B and 1C and reinstate the open space in accordance with OMP drawing number pS(cfi)04a(Feb 2016), BSM drawing number 310.

SHD 301522-18

10 year permission granted in August 2018 for 927 units and childcare facility including two retail units on 20.5ha. Permitted density was 55 units per hectare.

Condition 2 of the permission set out:

The appropriate period of this permission shall be 10 years from the date of this order. The development shall be carried out within this period in accordance with the phasing plan submitted with the application with the exception that the full length of the Ballyogan Loop Road shall be constructed as part of the first phase of the development (including that portion of the Loop Road to the South and South West of house numbers 346 - 307. The phasing plan shall be co-ordinated with the

completion of the residential development on the neighbouring land to the north of the site authorised under An Bord Pleanála Reference Number PL06D. 246601, Planning Register Reference Number D15A/0247. No development shall commence on the first phase of the development authorised by this permission until the planning authority has certified in writing that the development on the neighbouring land has been completed to a satisfactory extent. Prior to the commencement of development, proposals for its extension over any adjoining lands which are under the control of the developer shall be submitted to, and agreed in writing with, the planning authority. No development shall commence on any subsequent phase of the development authorised by this permission until the planning authority has certified in writing that the works in the previous phase have been completed to a satisfactory extent.

Reason: To ensure the orderly development of the site and the timely provision of supporting infrastructure.

5.0 Section 5 Pre Application Consultation

5.1. A Section 5 pre-application consultation took place at the office of An Bord Pleanála on 28th of February 2019. The main topics raised for discussion at the tripartite meeting were based on the agenda that issued in advance as follows:

1. Residential Amenity (existing and proposed)
2. Traffic and Transportation to include issues raised in planning authority's opinion
3. Surface Water Management to include issues raised in planning authority's opinion
4. Any other matters

A copy of the Inspector's report and Opinion is on the file for reference by the Board. A copy of the record of the meeting is also available on the file.

5.2. Notification of Opinion

An Bord Pleanála issued notification that, it was of the opinion, the documents submitted with the request to enter into consultation, require further consideration and amendment to constitute a reasonable basis for an application for strategic

housing development. The following is a brief synopsis of the issues noted in the Opinion that needed to be addressed:

1. Future Residential Amenity

Further consideration and/or justification of the documents as they relate to the future residential amenity of units vis-à-vis sunlight and daylight provision and the target values used to assess same. Consideration should also be given to the qualitative nature of proposed open space areas, outlook from residential units and the location of bicycle storage with specific regard to the potential impact on the residential amenity of the units. The further consideration of this issue may require an amendment to the documents and/or design proposals submitted.

The Opinion notification pursuant to article 285(5)(b) also referred to specific information that should be submitted with any application as follows:

1. A site layout plan indicating any encroachment onto F1 zoned lands. In the context of ancillary or associated enabling infrastructure (roads and car parking) being located on lands zoned open space and thereby reducing the quantum of open space, a design rationale/planning justification in respect of the open space provision, and provision of enabling infrastructure thereon should be submitted which should also reference any relevant extant permissions and/or as constructed development.
2. Having regard to the local road network serving the immediate area and its ability to accommodate additional traffic and/or accesses pending the completion of the Ballyogan loop road, the prospective applicant should demonstrate the suitability of the proposed vehicular access arrangements for the subject site.
3. Details regarding surface water management proposals which address the concerns raised in the planning authority's opinion.
4. Details of existing and proposed levels across the development site relative to adjoining lands.
5. A Building Life Cycle Report in respect of the proposed apartments as per section 6.13 of Sustainable Urban Housing: Design Standards for New Apartments- Guidelines for Planning Authorities (2018).

6. A construction and demolition waste management plan.
7. A phasing plan for the proposed development including phasing of this development in the context of the permitted Phase 1 and 2 developments on the overall Clay Farm lands.
8. A site layout plan indicating all areas, if any, to be taken in charge

5.3. Applicant's Statement

The applicant has submitted a statement of response to ABP Opinion's which is briefly summarised as follows:

Item 1

Future Residential Amenity

Response

The design and layout of the scheme, in particular Apartment Block G, has been revised to address the sunlight and daylight concerns, includes an increase in the dual aspect units and enhanced outlook and better quality communal open space areas. Block G includes the relocation of an internal staircase and removal of an end unit. The proposed scheme now includes 43.2% dual aspect units.

With regard to the specific additional information required, the applicant has submitted/ responded as follows:

- A map has been submitted to outline the F zoned open space lands on the site layout plan and illustrates all proposed apartments and associated car parking on residential zoned lands.
- The Traffic and Transport Assessment includes justification for permitting the proposed development via the Ballyogan Road junction on the eastern section of the Clay Farm Loop Road until such time as the Planning Authority can facilitate the access to the west onto the Clay Farm Loop Road at Castle Court/ Elmfield. The eastern section of the Loop Road up to the Eco Park has been construction as part of Phase 1A and 1B.
- A technical response to the items raised in the DLRCC's drainage section to demonstrate that the proposed attenuation volume would be sufficient for

discharge of 8.4 l/s. It was agreed that hydraulic modelling for the apartment scheme would not be required, as under the parent permission the site-wide hydraulic model has been approved.

- Existing and proposed levels have been provide and the separation distance of c.55m from Elmfield and 25m to Castle Court.
- A Building Life Cycle Report has been prepared which has regard to Section 6.13 of the apartment guidelines.
- A Construction and Demolition Waste Management Plan has been submitted.
- The phasing plan has been submitted which details the units which have been completed or are due to be completed and the proposal will not alter the design or impact on the delivery of the adjacent road up to the applicant's site boundary. The first phase of the Ecopark, i.e. the North West section is being advanced at present with an expected completion date for the end of Q1 2019. The south eastern section is proposed to be competed after the Loop Road Bridge is delivered under Phase 1-2 (end of 2019 for the entire Eco park).
- A taking in charge plan has been submitted.

5.4. Applicant's Statement of Consistency

The applicant has submitted a Statement of Consistency as per Section 8(1)(iv) of the Act of 2016, which indicates how the proposal is consistent with the policies and objectives of Section 28 guidelines and the County Development Plan. The following points are noted:

- The application relates to the most western part of Phase 1C of an already substantially developed permission (PL06D.246601/ Reg Ref D15A/0247) and will supersede the 56 no. apartments- Block G 32 no & Block E7 24 no).
- The proposed development does not fall within any of the EIAR thresholds.
- The overall density for Phase 1 will be 84.3ha, in line with national policy.
- The proposed 6 storey apartments complies with the Building Height Strategy in the development plan.

- Appropriate separation distances have been provided between the existing dwellings.
- The Design statement includes a potential access to third party lands to the west of the site.
- All habitable rooms can meet with the BSM daylight and sunlight standards.
- A Site Specific Flood Risk Assessment includes surface water attenuation proposals and other mitigation measures.
- A childcare facility is provided in Block F of Phase 1 which will accommodate the increase in population.
- Car parking demand surveys were undertaken and management regimens will be in place to ensure no overspill parking.
- Part of the road connection is proposed on lands zoned for open space to accommodate future access to a small site to the west.
- The proposal complies with national, regional and local policy.
- The Draft Ballyogan & Environs LAP was on public display with submissions invited until 14th of May 2019 and it is of note there are no significant policy changes or land use zoning changes proposed for the site.

6.0 Relevant Planning Policy

6.1. Project Ireland 2040 – National Planning Framework

The NPF includes a Chapter, No. 6 entitled ‘People, Homes and Communities’. It sets out that place is intrinsic to achieving good quality of life. A number of key policy objectives are noted as follows:

National Planning Objective 13 provides that “in urban areas, planning and related standards, including in particular, height and car parking will be based on performance criteria that seek to achieve well-designed high-quality outcomes in order to achieve targeted growth.

National Policy Objective 33 seeks to prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.

National Policy Objective 35 seeks “to increase residential density in settlements.

6.2. Section 28 Ministerial Guidelines

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

- ‘Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas’ (including the associated ‘Urban Design Manual’)
- ‘Design Manual for Urban Roads and Streets’ (DMURS)
- ‘The Planning System and Flood Risk Management’ (including the associated ‘Technical Appendices’)
- ‘Childcare Facilities – Guidelines for Planning Authorities’
- ‘Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities’ 2018
- Urban Development and Building Height, Guidelines for Planning Authorities, 2018.

6.3. Dun Laoghaire-Rathdown County Development Plan 2016-2022

The site is located on lands zoned as Residential, where Objective A states “*To protect and-or improve residential amenity*”.

Lands along the south and adjoining the site are zoned Open space, where Objective F states “*To preserve and provide for open space and ancillary active recreational amenities*”.

Sustainable Communities

- **Policy RES3:** Residential Density provides 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.

- **Policy RES7:** Overall Housing Mix sets out that it is Council policy to encourage the establishment of sustainable residential communities by ensuring that a wide variety of housing and apartment types, sizes and tenures is provided within the County in accordance with the provisions of the Interim Housing Strategy.
- **Policy RES14:** Planning for Communities – it is Council policy to plan for communities in accordance with the aims, objectives and principles of ‘Sustainable Residential Development in Urban Areas’ and the accompanying ‘Urban Design Manual – A Best Practice Guide’.
- **Chapter 2.2** of the development deals with Sustainable Travel and Transportation. Relevant policies and objectives in this section are referred to within the body of the assessment section.
- **Policy UD1:** Urban Design Principles provides that it is Council policy to ensure that all development is of high quality design that assists in promoting a ‘sense of place’.
- **Policy UD6:** Building Height Strategy- Compliance with the national guidance.
- Appendix 9 – Building Height Strategy
- **Section 8.2.3.2-** (i) Density. The sustainable housing guidelines of 2009 are promoted and a minimum of 35 units per hectare are allowed with more than 50 required at public transport nodes.
- **Section 8.2.3.3-** Apartment Development

An advisory note at the beginning of the development plan to state that these apartment standards have been superseded by the implementation of the national apartment standards and those SPPRs contained within.

(ii) 70% to have dual aspect,

(iii) mix required at a ratio of 40/ 40/ 20 for 1/2/3 plus units.

(iv) 22m separation distance required.

Car parking

- **Section 8.2.4.5-** Parking provision in excess of the maximum standards set out for non-residential land uses in Table 8.2.4 shall only be permitted in exceptional circumstances as described below.
- Reduced parking or car –free parking will be allowed in areas with high public transport accessibility.
- **Table 8.2.3:** Residential Land Use - Car Parking Standards
- Apartments- 1 space per 1-bed unit/ 1.5 spaces per 2-bed unit/ 2 spaces per 3-bed unit+/ (depending on design and location)

Clay Farm Loop Road

- **Table 2.2.5** Six- Year Road Objectives
- Clay Farm Loop Road that will serve the lands with 2 no. access points onto Ballyogan Road.

Roads **Section 2.2.10**

It is a long term objective of the Council to retain Kilgobbin Road, between Ballyogan Road and Kilgobbin Lane as an attractive “country” road.

6.4. **Draft Ballyogan & Environs Local Area Plan**

Map 6.9 of the development plan includes a specific objective to prepare a local area plan for the Ballyogan and Environs Local Area Plan.

The site is located within the Site Development Framework (SDR) for Kilgobbin within the Draft LAP which is was on public display between April and May 2019. Observations and objections to the proposal reference the policies and objective contained as summarised below:

- **Clay Farm Loop Road-** Specific Local Objective 135 states that the Loop Road will provide access to undeveloped lands of Kilgobbin South.
- **Clay Farm Ecopark-** Section 9.1.5- Phase 1 of the permission in Kilgobbin East will incorporate an “Eco Park” along the alignment of the Ballyogan Stream.

- **Section 5.2.3** - Building Height and Architectural Heritage references the ministerial guidelines

Policy BELAP RES5 – Building Height by Scheme: Any planning application for a scheme which proposes buildings in excess of 4 storeys shall be accompanied by an analysis of building height and positioning of buildings considering *inter alia* the context of the surrounding area, residential amenity, relationships to open space, wind, noise and placemaking.

6.5. Designated sites

The subject site is located c 5.7km to the north east of the Wicklow Mountains SAC (site code 002122) and c. 6.0 km to the north east of the Wicklow Mountain SPA (site code 004040) and c. 9km to the west of Rockabill to Dalkey SAC (site code 003000) and Dalkey Islands SPA (site code 004172).

6.6. Environmental Impact Assessment

6.6.1. The applicant has submitted an environmental impact assessment report screening, which concludes that with proposed mitigation measures in place, it is not anticipated that the construction or operational phases of the proposed development whether considered on its own or together with in combination projects or plans, will give rise to likely significant environmental effects. Therefore, a subthreshold environmental impact assessment is not required to accompany the application.

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

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

The proposed development is for 192 dwelling units, on a site area of 0.93ha. The proposed development is considered to be sub-threshold in terms of EIA having regard to Schedule 5, Part 2, 10(b) (i) and (iv) of the Planning and Development Regulations 2001-2017.

6.6.3. Class 13 (a) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:

Any change or extension of development already authorised, executed or in the process of being executed which would –

- i) Result in the development being of a class listed in Part 1 or paragraphs 1 to 12 of Part 2 of the Schedule, and
- ii) Result in an increase in size greater than-
 - 25 %, or
 - An amount equal to 50% of the appropriate threshold,whichever is greater.

6.6.4. The parent permission included 425 residential units, the cumulative total residential units of 561 units would result in an increase in units greater than 25% although the actual size of the site at 0.94ha is less than 25% of the overall 13.63ha. The additional units (136) is less than the 50% of the mandatory threshold of 500 units.

6.6.5. As per section 172(1) (b) of the Planning and Development Act 2000 (as amended), EIA is required for applications for developments that are of a class specified in Part 1 or 2 of Schedule 5 of the 2001 Regulations but are sub-threshold where the Board determines that the proposed development is likely to have a significant effect on the environment. For all sub-threshold developments listed in Schedule 5 Part 2, where no EIAR is submitted or EIA determination requested, a screening determination is required to be undertaken by the competent authority unless, on preliminary examination it can be concluded that there is no real likelihood of significant effects on the environment.

6.6.1. The proposed development would result in works on zoned serviced lands which forms part of a larger site which has been subject to an Environmental Impact Assessment. The development would be in residential use, which is the predominant landuse in the adjoining area. It would not give rise to waste, pollution or nuisances that differed from that arising from the other housing in the neighbourhood. The size and design of the proposed development would not be unusual in the context of this

developing urban area. The site is not zoned for the protection of a landscape or for natural or cultural heritage.

- 6.6.2. In these circumstances, upon preliminary examination, it is concluded that, based on the nature, size and location of the development, there is no real likelihood of significant effects on the environment. The need for EIA is therefore precluded and a screening determination is not required.

7.0 Third Party Submissions

A total of 9 no. observations were received, 2 of which are prescribed bodies, detailed below in section 9.0, with the remaining from residents within the existing Clay Farm development and the apartment development to the west of the site. Similar issues were raised throughout the submissions so I have summarised these under common themes below:

Impact on Trees

- There will be tree removal at the junction of Elmfield.
- Section 4 of the landscape and biodiversity report states that 4 trees are to be removed.
- Section 7 of the tree report relates to (one poor quality Ash (T725), one Beech (T721) and 2 Austrian Pines T722 & T723).
- Section 10 of the same tree report refers to the poor quality Ash (T725) as a mature tree. The numbers may be mixed up.
- The report indicates the removal of 7 trees including magnificent Monterey Pine. Clarity is required.

Traffic and Car Parking

- The proposal includes less than one car parking space per person and the site is not large enough to accommodate 192 apartments.
- At present each house has two parking spaces and there are issues with parking within the estate, with no parking for visitors and double parking.

- The current parking provision is unsuitable and will have a significant negative impact on the surrounding area and current road network.
- There are only 146 car parking for 192 apartments. 108 of the 192 of the apartments have two bedrooms. There is an under provision of parking on the site.
- The layout of the roads and infrastructure will not support the additional traffic and pose a risk to children in the estate.
- There is no clarification on when the Loop road will open or the entrance around Elmfield. The traffic coming through Larkefield View will have a significant impact on the residents.
- The lands required for access to the Elmfield Road/ Loop Road are in third party ownership by Deam Homes. Since the granting of permission there is very little assurance that any conditions can be met within the timescales.
- The increase in population will have a strain on the traffic in the vicinity and the LUAS stop at Leopardstown.

Density

- Dwellings within Clay Farm where purchased on original plans
- The new proposal would provide over densification on the site and there is a lack of public open space to accommodate the residents.
- The over densification on the site is contrary to the original permission and there is already a significant number of apartments in Clay Farm
- The increase in density on the site is 30% which is disproportionate to the overall context of the site which already has a high density.
- The application rationalises the density from SPPR 1 although this requirement is for the local authority to detail in development plans.

Residential Amenity

- There would be a significant negative visual impact on the existing residents
- The apartment blocks will tower over the dwellings, causing loss of light and privacy.

- The proposed apartments are out of character with the surrounding area.
- The proposed development will overlook the Castle court and Elmfield developments and the upper floors lie above the tree lining.
- The distance between Block G and Westminster is just 25m and the distance between Block E7 and Westminster is 34m

Height

- The two blocks are excessive at this location and do not comply with the Draft Local Area Plan 2019-2025 for Ballyogan & Environs.
- Elmfield and Castle court developments are only four storeys and the only other six storey building is a commercial building in Carrickmines.
- The LAP identified six areas or higher than 4 storeys of which this site is not included. Phase 2 is identified as suitable for higher buildings
- The proposed development will cause overshadowing.
- The proposal should be accompanied by analysis of building height.

Flood Risk Assessment

- Block E encroaches beyond the line for the flood zone risk.
- Previous permission PL06D.TA0002, phase 2 of Clay Farm was refused on the basis of flood risk and storm water management.
- The LAP identifies Clay Farm lands as heightened flood risk areas.

8.0 Planning Authority Submission

8.1. Overview

The planning authority, Dun Laoghaire Rathdown County Council has made a submission which was received by ABP on the 19th of June 2019. The report notes pre-planning consultations in the area and summarises the submissions received in respect of the application.

8.2. Summary of Views of Elected Members

A synopsis of the comments/views in respect of the proposed development is set out as follows:

- Overall density too high.
- Concern over the mass and scale of the building.
- Proposed height exceeds the norm in the area.
- Insufficient car parking provided.
- Regard must be given to the transportation department.
- Concern raised over the amount of open space provided, proposed roof gardens, open space outside the site and marshland should not be accepted.
- The LUAS is at full capacity and there would be more pressure on the surrounding infrastructure.
- Clay Farm Loop Road is still not in place and therefore the proposal is premature.
- Ballyogan Road is bleak and aesthetics are poor due to lack of landscaping
- Concern that Part V is limited to one block which will cause segregation.

8.3. Planning Analysis

The report which sets out the principle planning considerations and response to issues raised is summarised as follows:

Principle of Development- F zoned Land

- Part of the site is zoned as Objective A (residential) and part is zoned as Objective
- F (open space).
- A road access located to the north of Block G, proposed to “facilitate a future connection to the small site located to the west of the site”
- The road access is located on lands previously conditioned open space under parent permission PL06D.246601/ Reg. Ref. D15A/0247).
- Section 8.3.6 of the development plan states that in respect of land conditioned as open space, no development shall be permitted, except where it enhances the recreational amenity of the area.

- The proposed road connection leads to further encroachment of development into conditioned open space which fails to further enhance the recreational amenity of the area.
- It is considered the road access materially contravenes a condition of the parent permission.
- The proposed road connection in PL06D.246601/ Reg. Ref. D15A/0247 is considered more appropriate.

Density

- The national guidelines promote higher density in urban locations.
- Policy RES 3: Residential Density promotes higher densities of 50 units per hectare at certain locations.
- The proposed net density will be 84.5 per hectare.
- The calculation is acceptable and supports a higher density scheme.

Proposed Access

- The TTA identified that the existing temporary access through the eastern junction (junction A) is acceptable until such time as “the planning authority or adjacent landowner facilitate access to the western section of the Clay Farm Loop Road for Phase 1C”.
- The TTA submits that the Loop Connection (Elmfield and west of Phase 1c) will not be in place until 2030 (leaving 11 years).
- The proposed access is premature and the use of a temporary access is not acceptable.
- The number of residential units will increase to 251 which is a significant impact on a temporary access.
- There have been no assurances that the access can be delivered within the life time of the parent permission (PL06D.246601/ Reg. Ref D15A/0247).

Height

- Block G ranges in height from 4 to 6 storeys

- Block 7 ranges in height from 5 to 6 over basement.
- The previous permission permitted 5 storeys for Block G and E7.
- The building height strategy for the county (Appendix 9) of the development plan, allows up to 3-4 storeys or more where there are more than one upward modifier to justify height.
- The increase in density and exceptional public transport connection are upward modifiers.
- Downward modifiers must be considered in the context of building heights..
- A negative impact on adjoining residential amenity can be considered a downward modifier.
- The existing Ballyogan Road is very wide and would benefit from a 6 storey building (Block G).
- There are concerns the 5 storey element of the permitted building (Block G) would have a negative impact on the constructed houses which form part of Phase 1.

Residential Amenity.

- Previous concerns relating to Apartment G have been addressed, including an increase in the area of the courtyard to allow more sunlight, removal of the building return to the western courtyard and relation of the internal staircase and removal of end unit.
- There is insufficient information submitted to assess the potential impact of the proposal on the existing development at Castle Court and Elmfield.
- Section 16.3.3 of the development plan requires a minimum of 22m from opposing windows to prevent overlooking.
- There is adequate separation distance between Block G and Elmfield and Castle Court.
- There are concerns in relation to the separation distance between apartment blocks relative to the existing dwellings No 2-16 Larkfield heath (20.2m) this would have a serious impact on the residential amenity and warrant a refusal.

- There is a serious concern in relation to the 20 no car parking spaces along the ground floor level of the ground floor apartments which do not comply with DMURS.
- The proposal does not include a footpath from the surface parking which would endanger pedestrians.
- The submitted wind study includes mitigation measures.
- The impact of the traffic noise, as requested at pre application stage, has not been addressed.

Permeability

- The site is well served by public transport.
- The applicant has failed to demonstrate the needs of pedestrians and cyclists in this phase
- Regard should be given to the submission from the NTA which recommends that the access along the north of the site is increased to accommodate cyclists, by way of condition.

Car parking provision

- The level of parking on the site represents a ratio of 0.76 per unit
- An additional 4 spaces will be provided once the permanent road is provided to the west for Clay Farm Loop.
- The submitted TIA details the reasoning for the parking provision.
- Condition No 21 of the parent permission requires the provision for at least one car parking space for each residential unit.
- Section 4.23 of the apartment standards are noted which permit a reduction in car parking requirements.
- The transportation section recommend the provision of 1 space per unit.
- There is a shortfall in 44 parking spaces.

Cycle Parking Provision

- 369 cycle spaces area provided.
- The submission from the NTA raises the access in the basement.
- The Transportation Section refer to the DLRCC standards for Cycle Parking and associated Cycling Facilities for New Developments (Jan 2018).

- The apartment guidelines reference cycle parking and storage (Section 4.15 & 4.17).
- Safe access to the basement is required with separate lanes clearly for cyclists.

Open Space Provision

- Phase 1 included 5.71 ha of open space in the form of class 1 open space at Valley Park and Central Park and class 2 open space in the landscaped buffer along Ballyogan Road and other associated parks.
- The landscape masterplan indicates the main source of open space on F sourced lands “Eco Park/ Valley Park”.
- The Parks and Landscapae Services Department raises concern towards the intensification of the use of the temporary link over the open space and request it is removed and reinstated.

Trees

- The third party observations are noted.
- Section 11 indicates the removal of 7 trees.
- The discrepancy raised by the third parties is noted and a condition on any grant of permission should require the retention of the Monterey Pine (725).

Quality of Residential Units

- The proposal is compliant with the SPPR1 and SPPR 2 standards.
- SPPR 3 refers to the apartment floor areas and it is noted the proposal exceeds the minimum
- SPPR 4 refers to the dual aspect and the proposal, 43.2% exceeds the minimum (33%).
- SPPR 5 the details submitted comply with the minimum requirement for 2.7m height.
- The private amenity space exceeds the standards in the apartment guidelines.
- The communal open space requirement is 1,156m² the provision is deemed well designed to contribute to the needs of the residents.
- The building lifecycle report is considered acceptable.

Flood Risk

- The Ballyogan Stream runs along the southern section of Phase 1C in an easterly direction.
- A site specific flood risk assessment has been submitted and the conclusions are acceptable.

Taking in charge

- The taking in charge drawing is deemed acceptable.

Phasing

- The apartments are due for completion at the end of 2019 with Phase 1 due for completion in 2020, which is considered acceptable.

Finishes

- The mix of brick, render and cladding is considered acceptable and will set a characteristic of the area.

Part V.

- The provision of 12 units is considered acceptable by the housing section.

Crèche

- A crèche facility has not be provided although justification states that a crèche is provided in Phase 1 and Phase 2, which is acceptable.

AA/ EIA

- The screening for AA/EIA is noted and deemed appropriate.

Archaeology

- It is noted the report refers to testing and soil works within the first phase.
- It is noted that the report is referred to the Department of Culture, Heritage and the Gealthacht.

Construction and Environmental Management Plan

- The construction plan is noted.

- In relation to construction access, a condition should be included to allow only one access from the Ballyogan Road and the footpath and cycle track should be reinstated on completion of the works.

Development Contributions

- Standard development contributions are recommended.

Recommended Conditions.

- A set of 36 no. conditions are recommended.

8.4. **Statement in accordance with 8 (3) (B) (II)**

The Planning Authority recommends a refusal based on the following:

- The proposal is premature by use of a single access point from the Ballyogan Road.
- The proposed road connection, located to the north of Block G, on F zoned lands. This road connection leads to further encroachment onto conditioned open space. The proposal is contrary to the parent permission and contrary to Section 8.3.6 of the development plan.
- It is considered that the 5 storeys of Block G and its location will have an overbearing impact on No 2-16 Larkfield Heath.
- The proposed car parking/ storage are deficient by reference to table 8.2.3, car parking storage, of the development plan.

8.5. **Inter-Departmental reports**

Drainage Department.

- In relation to surface water, there is no objection subject to conditions.

Parks and Landscape Services

- Temporary road link, is now permanent over designated open space.
- The restoration link between class 1 and 2 open space is considered essential.
- The green link provides mitigation against intensive car use.

- The temporary access between Phase 1C and 1B shall be reinstated.

Transport Section

- The proposed development is deemed premature, having regard to the intensification of an unacceptable access.
- The reduced car parking levels are unacceptable.

9.0 **Prescribed Bodies**

9.1. Transport Infrastructure Ireland

- The proposed development falls within an area for an adopted Section 49 Supplementary Development Contribution Scheme- Extension of LUAS Line B1- Sandy for to Cherrywood. A Section 49 levy may apply.

9.2. National Transport Authority (NTA)

- From a strategic perspective the proposed development is supported.
- The applications is consistent with the parent permission and pends connection to the Clay Farm Loop Road.
- The future connection is supported although in the meantime pedestrian and cycle access should be provided directly to the Ballyogan Road, to the north of the site.
- It is noted that pedestrian access is provided and cycle provision should be integrated.
- The proposed pedestrian access should be redesigned to include a 4.0m width.
- There is no clarity as to access to the basement cycle provision.
- It is recommended that the proposed development complies with the local authority standards “Standards for cycle parking and associated Cycling Facilities for New Developments”.

10.0 Assessment

The main issues of the appeal can be dealt with under the following headings:

- Principle of Development
- Clay Farm Loop Road
- Car Parking and Cycle Provision
- Design and Layout
- Residential Amenity
- Open Space and Trees
- Flooding
- Part V
- Appropriate Assessment

Principle of Development

10.1. The proposed development includes alterations to a previously permitted residential scheme (PLO6D.246601/ Reg. Ref D15A/0247) to replace 56 no apartments with 192 no apartments. The applicant, during Section 5 Pre Application Consultation, was advised that any submitted application would be assessed as a stand-alone application and not solely as an amendment, the proposal has been assessed *de novo*.

Zoning

10.2. The site is zoned mainly for residential use in the development plan, where it is an objective *“To protect and- or improve residential amenity”*, with a small portion of lands to the immediate north zoned open space where it is an objective *“To preserve and provide for open space with ancillary active recreational facilities”*. The proposed development includes a road along the north of the site, within the open space designation, connecting the existing road at Lakefield Heath (shared surface) to a potential connection to the Clay Farm Loop Road, at the North West.

10.3. The planning authority have raised concern in relation to the encroachment of the road onto open space zoned lands (Objective F) which adjoins an area of passive

open space which provides a buffer between the dwellings and the main Ballyogan Road. Permitted uses within Objective F include carparks and other built forms relating to recreation where they are provided in such a manner as to optimise public patronage of the residual open space and protect the recreational use. In this instance, the extension of a road along the north of Block G has replaced part of a number of currently permitted apartments (06D.246601, Reg Ref D15A/0247) and a pedestrian access through the site. It is not proposed that the road along the north of the site is required as access for the overall development, although indicated as potential access, and the TTA does not include an analysis of this junction, therefore I do not consider it is a required vehicular access for the proposed residential development. Section 8.2.4.9 (vi) of the development plan states that the planning authority would not normally grant permission which entails vehicular access over public open space or a non-paved route. Whilst I do not consider the proposed road would contravene any policy relating to the provision of open space, I do not consider it is necessary to serve the proposed development or other Phase 1 lands and consider it would be more appropriately designed as a pedestrian and cycle route, which I consider can be included as a condition in any grant of permission.

- 10.4. I note Dwg no 180155-1000 includes a temporary construction access from the Ballyogan Road into the site. This temporary access will cross the open space lands in order to remove the construction traffic from the existing residential estate. Having regard to the temporary nature of this access and the overall proposal to provide open space, I do not consider the inclusion of the construction access would prevent the delivery of the open space or compromise the objective *“To preserve and provide for open space and ancillary active recreational amenities”*.

Draft Ballyogan & Environs Local Area Plan (LAP)

- 10.5. The Draft Ballyogan & Environs LAP was on public display between April and May 2019 to comply with a specific objective of the development plan (Map 6.9). A number of the submissions and observations reference the information contained within this draft LAP, namely the height and flood risk. I note the LAP is currently in draft format and may still be subject to change, therefore I have not referred to policies contained in this plan and I will assess all issues having regard to national and local policy separately below.

10.6. Therefore, based on the zoning objectives, I have no objection to the principle of the use on the site for residential development, subject to complying with development policies and other planning requirements as addressed in the following sections.

Clay Farm Loop Road

10.7. The proposed Clay Farm Loop Road includes two access points onto the Ballyogan Road (east and west). Table 2.2.5 and Map 9 of the development plan includes an objective for the provision of the Clay Farm Loop Road within 6 years. Phase 1 of the Clay Farm residential development is currently accessed from a junction to the east of the site onto Ballyogan Road. Phase 1C, the subject of this application, connects to the existing access to the east, via a temporary link across communal open space. Potential access onto the east of the Clay Farm Loop Road is separated by c.5m of a landscaped strip, in separate ownership to the applicant.

10.8. Phase 1C, as per condition No 7 of the parent permission (O6D.246601, Reg Ref D15A/0247) requires the construction of the westernmost access from Phase 1C to the Clay Farm Loop Road/ Elmfield Road and the removal of the temporary road linking Phase 1B and 1C, when required by the planning authority. I note the report of the Inspector for 06D.246601, acknowledged the objective to provide the Clay Farm Loop Road, but considered the proposed access provision, with access onto the east junction, was sufficient to accommodate the proposed traffic and did not consider the overall development was reliant on this access and therefore the development was not premature.

10.9. In response to the Section 5 Pre Application Consultation opinion, where the applicant was required to demonstrate the suitability of the proposed vehicular access arrangement to accommodate additional traffic pending the completion of the Ballyogan Loop road, the applicant has submitted an amended Traffic and Transport Assessment (TTA). The TTA justifies the use of the existing Ballyogan Road junction, until such times as the Planning Authority can facilitate access onto the Clay Farm Loop Road at Castle Court/ Elmfield, based on the limited increase in actual car generated by the additional 125 units (30 additional parking spaces, (144 no compared to 114 no.) and assumes the permanent vehicular connection to Elmfield (i.e. Clay Farm Loop Road) will not be in place until 2030.

10.10. The submission from the Planning Authority states that there is currently no certainty on the timescale for the provision of the Clay Farm Loop and the provision of this access is a matter for the applicant and third parties and it is recommended the proposed development is refused for the following reason:

“the proposed amendments would be premature due to the prospective deficiency in the road network because of increased traffic likely to result from the development as the continued reliance and proposed intensification of vehicular use of a temporary road link and a single access point onto the Ballyogan Road would render the road network unsuitable to carry the increase traffic likely to result from the proposed development.”

10.11. A Mobility Management Plan (MMP) accompanied the application, complying with Policy ST20 of the development plan where there is a requirement for “Travel Plans” for developments which generate a significant trip generation. The MMP details the proposal modal split for the site and includes a proposal to appoint a mobility manager which will promote the proposed modal split to all residents through a MMP website and app. Section 3.5.7 of the MMP details the LIHAP funding which was awarded to DLRCC in March 2018, for the Clay Farm Loop Distributor Road (€4.7m) and considering this will contribute to the delivery of the remaining 530m section of the road, the site will be well serviced before the TTA’s adopted 2035 future design year.

10.12. The TTA includes a range of scenarios to service the site utilising Junction A (east) and Junction B (west) based on the increase in traffic from the proposal and considers the cumulative impact of both Phase 2 lands and other committed development in the vicinity. The TTA references the location of the site, the provision of public transport in the vicinity including the LUAS green line and bus route along the Ballyogan Road and concludes that the proposed development will have not have a negative impact on the road network.

10.13. Having regard the objective of the plan to provide the Clay Farm Loop Road, the works at the existing junction onto the Ballyogan Road serving Phase 1, the public transport provision in the vicinity and to the relatively minor increase of 30 no. car parking spaces (144 no proposed compared to 114 no permitted) I do not consider the increase in traffic proposed development would have a significant negative

impact on the surrounding road network or the internal road network for Phase 1. I consider the inclusion of a condition, on any grant of permission, requiring compliance with condition No 7 of the parent permission, and the future connection to the Clay Loop Farm Road is sufficient to connect to the wider proposed network and support sustainable development.

Car Parking and Cycle Parking

10.14. The site is located to the south of the LUAS green line between The Gallops and Leopardstown Valley stops. Section 4.3 of the TTA details the provision of car parking spaces, detailed below, which equates to 0.76 spaces per unit. 4. No spaces will be included in the hammer head adjoining Block E7 once proposed connection to the Clay Farm Loop Road is established.

	Block G	Block E 7	Total
Car parking provision	80 basement 23 surface	43 basement	146 (including 4 disabled)

10.15. A large number of observations, and the submission from the planning authority, have raised concern in relation to the under provision of car parking spaces, the transport section of council recommends the provision of 1 space per unit. A refusal, based on the under provision of spaces and table 8.2.3 of the development plan, is recommended by the planning authority.

10.16. Table 8.2.3 of the development plan requires the provision of 1 car parking space per bed unit and 1.5 per 2 bed units. Section 8.2.4.5 of the development plan notes this requirement as a maximum and refers to a reduction in car parking in areas with high public transport accessibility. An advisory note accompanied the development plan to state that all housing standards in the development plan are superseded by the most up to date national standards and specifications. Section 4.21 of the national apartment guidelines refer to the need to consider a reduction of car parking standards in suburban/ urban locations served by public transport with more than 45 dwellings per hectare and where the proposal contains a higher density the

requirement for car parking should be substantially reduced or wholly eliminated in certain circumstances.

10.17. The TTA includes car parking demand surveys of similar existing residential schemes in the vicinity of the site and notes the ratio of car parking per unit can range between 0.626 to 0.737. The TTA refers to a recorded trend for a reduction in car ownership and use of alternative opportunities such as Go Car and in addition to enhanced cycle parking facilities the car parking provision is deemed sufficient. I consider the location of the site adjoining high quality public transport routes permits the reduction of parking standards referenced in section 8.2.4.5 of the development plan and section 4.21 of the national apartment guidelines.

10.18. In addition to the quantum of parking spaces the location of 22 no. car parking spaces along the east of Block G is raised as an issue by the planning authority as it considered undesirable adjoining ground floor apartments. I note the location of the parking spaces and their relationship with the ground floor apartments and private amenity spaces and consider the 10 no spaces along the south of Block G will impact the visual amenity of future residents. Having regard to the overall quantum of 0.76 per unit and inclusion of alternatives such as GoCar, I consider it reasonable to require the removal these spaces by way of condition on any grant of permission.

Cycle parking

10.19. The proposal includes 369 cycle spaces, as detailed below. This provision complies with Table 3.2 of the development plan (required 230 spaces) and is below the national apartment guidelines (required 398 spaces). Having regard to my recommendation to remove the proposed road link along the north of the site, I consider there is appropriate capacity to provide for the shortfall of 29 cycle spaces and can reasonably be conditioned on any grant of permission.

	Block G	Block E 7	Total
Cycle parking provision	213 basement 30 surface	10 basement 16 surface	369

10.24. A submission from the National Transport Authority (NTA) raised concern in relation to the width of the proposed path along the north of the site onto Ballyogan Road and requested an increase in width to accommodate a cycle way, which I consider reasonable to promote connectivity throughout the site. In addition, the NTA noted there was no designated access to the cycle spaces in the basement, which I consider appropriate for safe access of cyclists and can reasonably be conditioned.

Design and Layout

10.25. The site is 0.94ha in size and proposed development includes two apartment blocks, Block G, along the north of the site, and Block E7, to the south. Block G contains 125 no apartments, 80 no car parking spaces at basement level, communal residential facilities and ranges in height between four and six storeys. Block E7 contains 67 no apartments, 43 no. car parking spaces at basement level, communal open space at ground and roof terrace level and ranges in height between five and six storeys.

10.26. The proposed density on the site along is 204 units over hectare and over the entire Phase 1 lands includes a net increase from 65 units per hectare to 84.3 units per hectare. The calculation for the entire Phase 1 site is relevant to the proposal as it includes the provision of communal open space. A submission raised concern over the inclusion of density standards from the national guidance and considered this was a matter for the development plan to rationalise. I note an advisory note accompanied the development plan to state that all housing standards in the development plan are superseded by the most up to date standards and specifications in the "Specific Planning Policy Requirements" (SPPR) therefore I have assessed the proposal in line with relevant SPPR's and the overall design and layout further below:

- Density- The promotion of higher density houses in urban locations is promoted in Policy RES 3 of development plan where there is reasonable protection of existing residential amenities, further discussed below. The policies and objectives of the NPF and the national residential guidance promote a compact urban form and having regard to the existing development on the site and location the net density of c. 85 units per hectare for phase 1 lands is acceptable.

- Dual Aspect

	SPPR 4	Proposed	Compliance
Dual Aspect	33%	43.2%	yes

- Apartment Sizes- A schedule of accommodation accompanied the proposed development which state that a total of 115 units exceeds the minimum size in SPPR 3 by more than 10%.
- Housing Mix

	Block G & E7	Percent	SPPR 1
Studio	20	10.4%	(up to 25%)
One bedroom	64	33.3%	No minimum
Two bedroom	108	56.25%	No minimum

Lift and Stair Core

10.27. The proposed development include three cores per floor, servicing up to 23 apartments per floor. The central core extends from the communal residential area on the ground floor and includes two lifts and a stairwell, whilst the core to the most northerly location and southerly location are serviced by a stairwell and no lift. SPPR 6 of the apartment guidance allows a maximum of 12 apartments per floor per core.

10.28. Section 3.28 of the apartment guidance states that up to 12 apartments per floor may not be possible or necessary in all blocks in all apartments, subject to good design and compliance with the Building Regulations, maximising the number of apartments per floor per stair/ lift core in order to assist in ensuring service charges and maintenance costs are kept to a reasonable level.

10.29. I note SPPR 6 of the apartment guidance does not specifically reference to a core as both lift and stairwell. The layout of Block G has been amended on foot of an ABP opinion requesting additional sunlight/ daylight provision for the open space areas. As discussed below, I consider the overall design and layout of Block G acceptable and therefore compliant with Section 3.28. I note the two lifts are centrally located to service either side of Block G, whilst there is one stairwell to the north and a further separate stairwell to the south, and I do not consider it a necessity to amend the scheme to reduce the apartment units per floor.

Height

10.30. The Building Height Strategy in Appendix 9 of the development plan, does not include specific height restrictions, although refers to “*Upward and Downward modifiers*”. The height strategy provides focus on the prevailing character of the area and the ability to absorb increased heights where there is a necessity not to detract from the existing residents amenities. The proposed height of Block G is 16.6m and the proposed height for Block E7 is 16m, increasing to 19.4m at selected locations. The existing apartment buildings located to the west of the site range in height between 4 and 5 stories, which I consider provides a precedence for taller buildings at this location. The impact of the buildings on the adjoining residential amenity is further discussed below.

Design

10.31. Policy UD1 of the development plan reiterates the principles of good urban design as contained in the ‘Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (Cities, Towns & Villages) 2009’ and the accompanying design manual. These Guidelines advocate high quality sustainable development that are well designed and built to integrate with the existing or new communities and the design manual provides best practice design criteria such as context, connections, inclusivity, variety, efficiency, layout etc. where it is a requirement for the design of new development to improve and enhance the existing situation to make a positive contribution to the neighbourhood as assessed below.

10.32. Block G has frontage along the north, adjoining the main Ballyogan Road and is a similar height and design to the block permitted at this location. The remainder of Block G follows a U shaped design, where the central area along the east, is set

back from the boundary edge and is inclusive of an open courtyard and entrance for the communal residential area. The south east portion of Block G is positioned along the edge of the site, separated by an internal road, opposite eight 3 storey dwellings (No 2- 16 Larkfield Heath). Block E7, is rectangular in shape and is located to the south of a proposed link road and north of communal open space. The external materials include for a range of grey brick, render, zinc cladding and coated steel framework. The external materials within the existing Phase 1 include a range of render and brick, albeit a different colour, which is similar in design and I consider provides a high quality finish.

10.33. I consider the design respects the location of the site, adjoining the public road, in close proximity to a LUAS line and to the west of an existing apartment development and I consider the proposed apartments will complement the range of existing 2 and 3 storey dwellings adjoining within Phase 1 which are nearing completion and follows the principles of the national guidance.

Residential Amenity

10.34. As stated above, Block G is located to the west of Larkfield Heath, a row of three storey dwellings and to the east of Castle Court and Elmfield apartments, four stories in height. The planning authority have raised concern over the impact of Block G relative to the existing dwellings along Larkfield Heath, to the east, and recommend a refusal having regard to the overbearing impact. In addition, a number of observations have raised concern over the height of Block G and the impact on the apartment building, further discussed below.

Overlooking

10.35. The east of Block G includes balconies on all facades and is separated from Larkfield Heath, to the east c. 25m and by and the apartments to the west by c 23m at the closest point. Section 16.3.3 of the development plan states that a minimum clearance distance of 22m between opposing windows will apply in the case of apartments up to three storeys in height and in taller buildings a greater separation distance may be required depending on orientation and location of surrounding area. The majority of mature trees along the western boundary are to be retained, and in conjunction with the separation distance, the Clay farm Loop road and the design of the both the existing and proposed will prevent any impact from overlooking to the

west. In relation to Larkfield Heath, considering the permitted apartment development at the most northerly part of the site adjoining the open space area, the design and the separation distance and I do not consider any overlooking will have a significant negative impact on the residential amenity of those residents.

Overshadowing

10.36. As stated above the , the height of Block G is c. 16m and is located c. 22m from the front of existing dwellings to the east of the site and c. 22m from those apartments to the west. Block E7 is c. 19m and not within range to any dwellings. No shadow projection drawings were submitted with the application. I have had regard to overall design, location and orientation of the apartments and I do not consider there will be any potential for overshadowing on the surrounding properties.

Overbearing

10.37. The southern section of Block G is c. 40m in length and is located to the west of those existing dwellings No 2-16 Larkfield Heath. This part of Block G replaces a number of dwellings of which the highest is 3 stories in height (type D1). The apartment development is located c. 22m from the front of those dwellings along Larkfield Heath, separated by a road, car parking spaces and a landscaped strip. Having regard to the overall design of Block G in the context of the permitted residential development, I do not consider the increase in height will have a significant negative impact on the amenity of those residents of No 2-16 Larkfield Heath.

Daylight and Sunlight analysis

10.38. A daylight and sunlight report has been submitted. A threshold of 1.5 % has been used for the living rooms and kitchen as these are communal areas, rather than the required 2%, which I consider a reasonable rationale for the analysis. Block G has 7 units which will have an average sunlight factor of less than 2% but greater than 1.5% and Block E7 has 2 units. The majority of the remaining units in both Block G and Block E7 exceed the required targets. In relation to the open space the target for at least half the amenity area to receive at least two hours of sunlight at equinox has been met.

Open Space and Trees

10.39. The proposed development includes the provision of private and communal amenity space for both Block G and Block E7 as detailed below.

	Block G	Block E 7	Total
Ground level	475m ² 420m ²	242m ² with amenity play	1,137m ²
Upper Level	1,080m ² with 2 roof terraces	165m ² roof terrace	1,245m ²
Total	1,975m²	407m²	2,382m²

10.40. The quantum of communal open space exceeds the requirements of the national apartment guidelines (1,156m²) with provision for younger children in the form of a sandpit at Block E7 and wooden play logs and two play features in Block G. A landscape master plan has been submitted and accompanied by a Landscape, Visual Impact and Biodiversity Report which refers to the permitted Ecopark along the south of the site and the provision of formal play facilities i.e. MUGA and playing pitches. The landscaping provision is indicative and specific sizes, numbers and location of planting is not provided.

10.41. The ABP opinion that issued required further consideration inter alia, a phasing plan for the proposed development including phasing of this development in the context of the permitted Phase 1 and Phase 2 developments on the Clay Farm Lands. This has not been provided where the landscape master plan illustrates the overall proposal in the context of those permitted developments. I do not consider the provision of a completed Ecopark a necessity in the short term as amenity for the residents of the proposed development although I consider the landscaping within the subject site does not included sufficient details and therefore I consider a condition on any grant of permission should include the provision of semi-mature planting and integration of play facilities.

Trees

- 10.42. In conjunction with the landscaping plan for the open space around the apartments, the proposal includes the removal of a number of trees along the western boundary, to accommodate the future vehicular access to the Clay Farm Loop Road. The site does not have a tree protection order.
- 10.43. A Tree Survey Report accompanied the application which includes an assessment of those trees required to be removed namely 2 prominent Austrian Pine Trees (T722 & T723) a poor quality Beech (T721) and an Ash Tree (T725). The schedule of trees at the rear of the tree report notes T725 as a Monterey Pine and no Ash Tree as noted in the report. A number of submissions and the planning authority have raised the discrepancy in the information between the report and the schedule and request clarity. The planning authority recommend a condition to confirm the trees to be removed and the retention of the Monterey Pine.
- 10.44. I note the information in the Tree Survey and the accompanying landscape drawings. I consider there is discrepancy in the written documentation and maps submitted wherein the landscaping drawings do not illustrate the full extent of trees removal. I consider the applicant should submit an amended Tree Survey Report, supported with landscaping drawings. I note there is a possibility the proposal includes the removal of a Monterey Pine. As stated above, there is no tree protection order on the site. This aside the boundary treatment enhances the surrounding area and I consider an appropriate planting regimen of tree planting along the west of the site should be included to compensate for any proposed tree removal.

Flooding

- 10.45. The site is located 100m from Ballyogan Stream and the OPW Flood Maps ¹ indicate the area along the stream as 0.1% fluvial AEP event. The Flood Risk Assessment (FRA) maps do not indicate any flood risk within the residential site, however the Ballyogan Stream to the south of the site (outside of the site's boundary). A flood risk justification test and detailed flood risk assessment accompanied the parent permission PL06D.246601. A Site Specific Flood Risk Assessment (SSFRA) accompanied the application which states that the proposed finished floor levels are set at a minimum of 0.5m above the adjacent 0.1%AEP estimated flood level (from the CFRAMS mapping) for the Ballyogan Stream, above the required minimum in the

¹ www.floodmaps.ie

national flood guidelines (0.5m over 1% AEP) and a shallow ramp has been provided at the entrance to each apartment building for the undercroft parking area to avoid overland flows originating from roads entering the buildings, in an extreme event.

10.46. Other mitigation measures have been included in Section 5.5 of the FRA which relate to the treatment of surface water and the proposed drainage systems. Three mitigation measures relate to specific works within the site to deal with potential flood on the site including M4- dropped kerbs and side inlet gullies, flood defined ramps at the top of the basement carpark and M6 a pumping station in the basement to pump any incidental flows. The report of the Drainage Department of the Council noted the information in the SSFRA, considered the conclusions where acceptable and required the submission of full details of those mitigation measures listed in Section 5.5 for agreements. In addition they considered M9, attenuation storage, may not be required as SUDs was proposed on the site. I note the location of the site and the flood zone and I do not consider these mitigation measures are a necessity to undertaken an assessment of the proposal. I note the mitigation measures have been detailed to some extent on submitted plans although I consider the submission of full details of the pumping station and defence ramp for agreement to the Council a reasonable condition.

10.47. Having regard to the location of the site, distance from the Ballyogan Stream and those mitigation measures listed in the FRA, I do not consider the proposed development would not exacerbate any risk of flooding of the site or of property in the vicinity.

Part V

10.48. The applicant proposes to comply with Part V via the provision of 12 no apartments within Block E3 in the permitted Phase 1 development, exact details to be agreed. The planning authority is satisfied with this provision.

Appropriate Assessment

10.49. The site is located c. 5km south of Dublin Bay SAC (site code 000210), c 5.7km to the north east of the Wicklow Mountains SAC (site code 002122) and c. 6.0 km to

the north east of the Wicklow Mountain SPA (site code 004040) and c. 9km to the west of Rockabill to Dalkey SAC (site code 003000) and from Dalkey Islands SPA (site code 004172). The Ballyogan Stream is located to the south of the site and flows in an easterly direction. The proposal has been accompanied by a Screening for Appropriate Assessment which includes a list of European Sites within a 15km radius of the site and states that there exists a potential "pathway" via the Ballyogan Stream to those off shore sites, namely Rockabill to Dalkey SAC and Dalkey Islands SPA, which I consider reasonable.

10.50. The screening report refers to surface water drainage provision and connection to foul sewer, all which comply with the parent permission and coupled with the fact the watercourses downstream of the site, into which the Ballyogan Stream flows, do not discharge directly to a European Site (Shanganagh River enters the sea at Ballybarack), there will be no significant impact on any European Designated Site. I note the location of the site relative to Rockabill to Dalkey SAC and Dalkey Islands SPA and I do not consider there is any potential "source-pathway" to connect the site with these sites or any other European Designated Site.

10.51. Therefore, having regard to the nature and scale of the proposed development within a serviced area and separation distance 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 the conservation objectives of any European site.

11.0 Recommendation

I recommend that planning permission should be granted, subject to conditions, as set out below.

12.0 Reasons and Considerations

Having regard to the following:

- (a) the zoning objective for residential development in the Dún Laoghaire-Rathdown County Development Plan 2016-2022,
- (b) the policies and objectives in the Dún Laoghaire-Rathdown County Development Plan 2016-2022,
- (c) the Rebuilding Ireland Action Plan for Housing and Homelessness;
- (d) the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas and the accompanying Urban Design Manual;
- (e) the Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for New Apartments;
- (f) the Design Manual for Urban Roads and Streets (DMURS);
- (g) the Planning System and Flood Risk Management Guidelines for Planning Authorities (including the associated Technical Appendices);
- (h) the nature, scale and design of the proposed development;
- (i) the availability in the area of a wide range of social and transport infrastructure;
- (j) the pattern of existing and permitted development in the area, and
- (k) the submissions and observations received,

It is considered that, subject to compliance with the conditions set out below that the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would respect the existing character of the area and would be acceptable in terms of traffic and pedestrian safety and convenience and would not give rise to flooding in the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

13.0 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. Apart from any departures specifically authorised by this permission, the development shall be carried out and completed in accordance with the terms and conditions of the permission(s) granted on 29th of August 2016 under appeal reference number PL06D.246601, planning register reference number Reg Ref D15A//0247, and any agreements entered into thereunder.

Reason: In the interest of clarity and to ensure that the overall development is carried out in accordance with the previous permission.

3. Prior to commencement of development, a revised site layout plan shall be submitted to the Planning Authority for a written agreement on the following:
 - a. The removal of the proposed road extension along the north of the site between Larkefield Heath and the North West corner and integration of a pedestrian and cycle path connecting to a possible future link adjoining the Clay Farm Loop Road.
 - b. The removal of 10 no car parking spaces along the south east of Block G, replace with landscaping and integration of a footpath.
 - c. Increase in width of the proposed pedestrian walkway to the north, onto the Ballyogan Road to 4m, and integration of a cycle way.
 - d. The provision of 26 additional cycle parking spaces and inclusion of a designated cycle route to the basements of north Block G and Block E7.
 - e. The provision of an access road between Block G and Block E7 up to and including the boundary to the north-west with the removal of any “ransom strip”.

f. The submission of details of the flood defence ramp and handrails at the top of the basement car parks at Block G and Block E7.

g. Final details of pumping station within the basement.

Reason: In the interest of residential and visual amenity.

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

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

5. The external finishes of the apartments shall be submitted to the planning authority for written agreement.

Reason: In the interest of visual amenity

6. Proposals for an estate/street name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

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

7. Prior to the opening of the development, the proposals laid out in the Mobility Management Strategy shall be submitted to and agreed in writing with the

planning authority. Details of the implementation and management shall be agreed with the planning authority shall include the provision monitoring and reporting associated with the policies set out in the strategy.

Reason: In the interest of encouraging the use of sustainable modes of transport.

8. A comprehensive boundary treatment and landscaping scheme shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. This scheme shall include the following:-
- (a) details of all proposed hard surface finishes, including samples of proposed paving slabs/materials for footpaths, kerbing and road surfaces within the development;
 - (b) all planting shall be semi-mature and native and the proposed locations of trees and other landscape planting in the development, including details of proposed species and settings shall be included;
 - (c) details of proposed street furniture, including bollards, lighting fixtures and seating;
 - (d) details of proposed boundary treatments at the perimeter of the site, including heights, materials and finishes.
 - (e) full details of the proposed green roofs including construction and post-construction maintenance and specification,
 - (f) the submission of a revised Tree Survey, Protection and Removal Plan and accompanying landscape drawings confirming the removal of 4 trees and (T721, T722, T723, T724) and proposing a tree planting scheme with semi-mature native species.

The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme and completed prior to the occupation of any residential units.

Reason: In the interest of visual amenity.

9. The applicant or developer shall enter into water and/or wastewater connection agreement(s) with Irish Water prior to the commencement of this development.

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

10. Where the public open space is not taken in charge, the proposed open spaces shall operate as public parks in perpetuity, with public access and use operated strictly in accordance with the management regime, rules and regulations including any byelaws of the planning authority at all times.

Reason: In the interest of residential amenity and to secure the integrity of the proposed development including the public park

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

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

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

Reason: In the interest of orderly development.

13. 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 Owners' 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

14. 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.

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

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

16. 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

17. The developer shall pay to the planning authority a financial contribution for the extension of Luas Line B1 – Sandyford to Cherrywood in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. The application of any indexation required by this condition 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.

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. 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

Karen Hamilton
Planning Inspector

29th of July 2019