



An  
Bord  
Pleanála

## Inspector's Report

### ABP-304396-19

#### Development

Retail/Commercial Development comprising a neighbourhood centre, retail warehouses, cinema and other leisure space, residential units, crèche, office space, car showroom, medical centre, linear park and associated works.

#### Location

Site of 10.5 ha at lands known as Quadrant 3, The Park, Brookfield Glenamuck Link Road, (also known as Glenamuck Road), and Ballyogan Road, Carrickmines Great and Jamestown, Dublin 18.

#### Planning Authority

Dun Laoghaire Rathdown County Council

#### Planning Authority Reg. Ref.

D18A/0257

#### Applicant(s)

Input PLC

#### Type of Application

Permission

#### Planning Authority Decision

Grant with Conditions

<b>Type of Appeal</b>	First & Third Party
<b>Appellant(s)</b>	1) Input PLC (First Party) 2) Olivia Buckley 3) Movies@Dundrum 4) Barbara & Aidan O'Malley 5) Dundrum Retail Limited Partnership
<b>Observer(s)</b>	Transport Infrastructure Ireland
<b>Date of Site Inspection</b>	19 <sup>th</sup> July 2019
<b>Inspector</b>	Mary Crowley

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## 1.0 Site Location and Description

- 1.1. The appeal site with a stated area of 10.5 ha is situated to the west of the Glenamuck Link road, to the south of the Ballyogan Road, to the south-west of the M50 Carrickmines Interchange and 12 kilometres south-east of Dublin City Centre. The appeal site forms the north-east quadrant of the larger area known as “The Park”, which comprises of a mix of commercial, office and retail warehousing uses. The Park, Carrickmines comprises of four quadrants – the south-western and north-western quadrant comprises of a retail park. Commercial office buildings are located within the south-east quadrant.
- 1.2. The appeal site is proximate to the Luas Green Line with a station at Ballyogan Wood to the north and also benefits from existing bus services operating between Kiltiernan and Dún Laoghaire. The site is currently accessed from the Glenamuck Link Road along the eastern boundary of the site. The proposed development incorporates a link road connecting the site to the Ballyogan Road. This road will provide a direct pedestrian, cyclist and vehicular link from The Park to Ballyogan Wood Luas Station.
- 1.3. A set of photographs of the site and its environs taken during the course of my site inspection is attached. I also refer the Board to the photos available to view on the appeal file. These serve to describe the site and location in further detail.

## 2.0 Proposed Development

- 2.1. The application was submitted to DLRCC on the 26<sup>th</sup> March 2018. Permission is sought for neighbourhood centre (including retail, retail services and restaurant/café uses), retail warehouses, cinema and other leisure space, residential units, crèche, office space, car showroom, medical centre, linear park and associated infrastructural works at lands known as Quadrant 3, The Park.
- 2.2. The proposed development comprises a Gross Floor Area (GFA) of 83,996 sqm, excluding the basement car parks, in four blocks varying in height from two to six storeys. The maximum height of the proposed development is 29.4 metres.
- 2.3. Blocks A, B & C include:
  - 130 no. residential units (GFA of 12,522 sqm)

- 7,983 sqm GFA of retail floor space, which includes 2 no. supermarkets [to include off-licence use] (GFA of 1,725 sqm and GFA of 1,390 sqm)
- 11,154 sqm GFA of retail warehousing floor space
- 552 sqm GFA of retail services floor space
- 3,210 sqm GFA of restaurant/café floor space
- 4,667 sqm GFA of own door office floor space
- 527 sqm GFA crèche
- 446 sqm GFA car showroom
- 720 sqm GFA medical centre
- 336 sqm GFA management suite
- 3,235 sqm GFA of leisure floor space, which includes a 590 sqm leisure unit for an indoor skydiving facility, 7 no. screen cinema with a GFA of 3,194 sqm, 3 no. kiosks with a GFA of 37 sqm and all associated service and circulation floor space.

2.4. The office building (Block D) includes 12,980 sqm GFA of office floor space and two levels of basement car parking containing 130 no. spaces.

2.5. The development also comprises of a series of open landscaped streets and green roofs and includes two levels of basement car parking containing 966 no. car parking spaces, 54 no. of surface car parking space, cycle spaces, shower and changing facilities, Circulation areas, plant areas, service yards and fire escapes (GFA of 22,433).

2.6. Block A contains the following:

- Two no. supermarkets (to include off-licence use) with a GFA of 1,725 sqm and GFA of 1,390 sqm service yard and loading bays, 6 no retail units, 26 no. own door office units (over two levels), external courtyard, a gym, a leisure facility, 5 no. restaurant/café units, a medical centre, management site and an up-down car ramp to the basement.

2.7. Block B is a six storey building and contains the following:

- 3 no. retail service units at ground floor level, 2 no. restaurant/café units at ground floor level, a car showroom (at level -1) and a crèche (over two levels)

and 130 no. apartments at first, second, third, fourth and fifth floor level and a courtyard at first floor level.

2.8. Block C is a three storey building and contains the following:

- 6 no. retail warehousing units including mezzanine level, 12 no. retail units, indoor skydiving facility, 2 no. restaurant/café units and a 7 screen cinema.

2.9. Block D is a six storey building located to the north west corner of the site and contain 12,980 sqm GFA of office floor space and 130 no. of basement car parking spaces over two levels.

2.10. The proposal includes all hard and soft landscaping work; all associated site development works; waste management facilities and all other ancillary works. The linear park is located on the northern part of the subject site, adjacent to the Ballyogan Stream and has total area of approximately 1.5 ha. A pedestrian and cycle bridge is proposed across the linear park and links the neighbourhood centre (Blocks A, B and C) and the office building (Block D). The proposed bridge provides a direct commuter link between the neighbourhood centre and Ballyogan Road. The linear park includes a greenway link along the southern boundary of the park.

2.11. Access to / from the site will be provided as follows:

- A vehicular entrance is proposed off Glenamuck Link Road via Park Avenue, providing access to the surface car park and basement car park via a ramp.
- A break in the central median will be provided to allow for the proposed access.
- A left in, left out access and exit is proposed onto Glenamuck Link Road along the eastern boundary of the site.
- A dedicated access road is proposed for the residential units from Ballyogan Road.
- A further entrance and exist is proposed off the Ballyogan Road for the Office Building (Block D).
- The scheme includes a proposed new link road through an extension of Northfield Road to Ballyogan Road to the north of the site.
- This link road will be a two way c.10m wide road which will provide a direct pedestrian, cycle and vehicular link to Ballyogan Wood Luas stop.



- The extension of Northfield Road to Ballyogan Road will require the partial culverting and re-alignment of 90 metres of the Ballyogan Stream on the north western boundary of the site.
- A roundabout is proposed off the Northfield Road which will provide a customer and servicing access and exit to the basement car park.
- The proposal provides for upgrades to Ballyogan Road, upgrades to Park Avenue and Glenamuck Link Road, including a new inset bus bay and pedestrian crossing along the Glenamuck Road.

2.12. An Environmental Impact Assessment Report, which also constitutes and Environmental Impact Statement of the purposes of the Planning and Development Act 2000, as amended and the Planning and Development Regulations 2001-2017, was prepared and accompanied the application.

2.13. The application was also accompanied by inter alia the following:

- Planning Report
- Retail Impact Statement
- Schedule of Accommodation
- Architectural Design Statement
- Apartment & Housing Quality Assessment
- Sunlight Assessment for Apartments
- Photomontages
- Landscape Drawings & Landscape Design Report
- Engineering Drawings, Engineering Assessment Report, Storm Water Impact Assessment Report
- Flood Risk Assessment
- Traffic & Transport Assessment Report
- Energy Statement Report & Site Lighting Plan
- Arborist Report
- Screening for Appropriate Assessment
- Wind Assessment Report
- Climate Change Impact Assessment

- Bat & Badger Assessment
- Part V Documentation
- Letters of Consent from (1) DLRCC and (2) Muinnellim Ltd

2.14. The proposal was revised at Further Information stage with the key amendments summarised as follows submitted on the 12<sup>th</sup> October 2018

- Amendments to landscaping scheme to provide for additional play areas
- Provision of drawings to illustrate potential for future change of use of retail warehousing to office reuse
- Omission of the previously proposed “left-in” arrangement from the Glenamuck Link Road
- Details were provided of the proposed leisure use within Block A
- Further details provided in respect of the car showroom use
- Creation of replacement badger setts following additional badger surveying
- Revision and clarifications were also sought to the submitted EIAR

2.15. The response was accompanied by revised public notices, Part V proposals, car parking details and a cover letter.

2.16. Further revisions were incorporated and submitted on the 18<sup>th</sup> February 2019 on foot of a request for Clarification of Further Information made by DLRCC. The key changes arising to the scheme are summarised as follows:

- Reduction in the capacity of the proposed cinema, from 1,200 seats to 900 seats in total
- Updates to the EIAR and the AA Screening Report
- Revised public notices

2.17. The response was accompanied by revised public notices, Part V proposals, taking in charge proposals and a cover letter.

## 3.0 Planning Authority Decision

### 3.1. Decision

3.1.1. On the 11th April 2019, following consideration of further information and clarification of further information, DLRCC issued a notification of decision to grant permission subject to 32 conditions.

3.1.2. Conditions relevant to this appeal are as follows:

**Condition No 4** - The development shall be carried out on a phased basis in accordance with a revised phasing scheme, which shall be submitted to and agreed in writing with the Planning Authority prior to the commencement of any development or as otherwise agreed with the Planning Authority. In this regard,

- a) The Ballyogan Link Road (Northfield Road Extension) shall be constructed and operational before the commencement of development works for the overall 'Quadrant 3, The Park' development
- b) The proposed apartments and Block D shall be completed before the operation of neighbourhood centre commences or as otherwise agreed with the Planning Authority in writing.
- c) The park including greenway (as shown on Figure 12:13 of chapter 12 of the EIAR) shall be available for use by the general public before the operation of neighbourhood centre commences or as otherwise agreed with the Planning Authority in writing.
- d) The neighbourhood centre and leisure use shall be in operation before the occupation of the retail warehousing.

**Reason:** To ensure that the proposed development complies with the zoning objective and SLO 131 of the County Development Plan.

**Condition No 5** - Prior to commencement of the proposed 'Quadrant 3, The Park' development the Applicant shall submit for the agreement of the Planning Authority a written agreement outlining that members of the public have full right and liberty for the free passage and use of the greenway through the proposed 'Quadrant 3, The Park' development/Linear Park (i.e. the Applicants Blue Line). The management

plan included in condition no 15 shall detail the maintenance and management of the to open space to maintain the access route

**Reason:** In order to accommodate unrestricted access at all times through the proposed 'Quadrant 3, The Park' development/Linear Park to ensure pedestrian/cyclist permeability between Ballyogan to the west and Cherrywood/future development to the east.

**Condition No 9** - With regard to the residential element of the development:

- a) The proposed residential element of the development shall be retained in private ownership and maintained by a properly constituted Management Company. Membership of this Company shall be compulsory for all purchasers of residential property in the development.
- b) Prior to commencement of development, proposals for a numbering scheme for the apartments shall be submitted to the Planning Authority for written agreement.
- c) Each apartment and dwelling shall be used as a single dwelling unit only and shall not be sub-divided in any manner or used as two or more separate habitable units.

**Reason:** To ensure a proper standard of residential development and maintenance of communal facilities.

**Condition No 10** - With regard to the commercial element of the site:

- d) The use of the retail warehousing units shall be limited to bulky goods as defined in Annex 1 of the Retail Planning Guidelines, 2012. No more than 20 % of the net retail floor space shall be used for the sale of any ancillary products. Prior to the occupation of each unit floor plans which show this shall be agreed in writing with the Planning Authority.

**Reason:** In the interest of orderly development, to comply with the Specific Local Objective 131, to comply with the retail policies set out in chapter 3 and 8 of the County Development Plan and in the interest of proper planning and development.

**Condition No 11** - With regards to Transportation and Movement:

- a) Prior to commencement of the proposed 'Quadrant 3, The Park' development the Applicant shall submit for the agreement of the Planning Authority a proposed Parking Control Scheme (i.e. Paid Parking) for the commercial element of the proposed development to include a review procedure to agreed in writing with the DLRCC Traffic Section and a future Parking Control Management Company for the said commercial element of the proposed development.
- b) The number of car parking spaces shall be reduced by 60. Revised drawing showing this reduction shall be submitted to the planning authority before the commencement of development for written agreement.
- c) The Applicant shall construct at their own expense and to the approval of the Planning Authority a completed and operational Ballyogan Link Road (Northfield Road Extension) prior to commencement of development works for the overall 'Quadrant 3, The Park' development, in accordance with submitted drawing 'Title: General Arrangement DLRCC Lands Access / Drawing Number: 5157618/HTR/SK/0034 / Date: 14.09.18'.
- d) It shall be noted that the existing Left In/Left Out arrangement at main entrance to the 'Quadrant 3, The Park' development be maintained, in accordance with submitted drawing 'Title: General Arrangement DLRCC Lands Access / Drawing Number: 5157618/HTR/SK/0034 / Date: 14.09.18'. The development buildings and structures shall be setback to allow for future construction of the proposed junction as per drawing 'Title: Main Entrance Option 2 Right Turn Lane / Drawing Number: 5157618/HTR/SK/025 / Date: 26.06.18 / Rev.: A'. This set back shall also include the Glenamuck Road Northbound lane roadside kerb and Bus Lay-by/Kassel Kerbs, also shown as per drawing 'Title: Main Entrance Option 2 Right Turn Lane / Drawing Number: 5157618/HTR/SK/025 / Date: 26.06.18 / Rev.: A', The Applicant shall ensure an overall proposed shared surface (2 way cycleway and footpath) width of 5.2m between the overall 'Quadrant 3, The Park' development roadside boundary treatment and its perimeter roads (i.e. Glenamuck Road/The Park/Ballyogan Road/ Ballyogan Link Road (Northfield Road Extension)).

- e) The Applicant shall confirm in writing that they will allow the Planning Authority or a 3rd Party to remove the central median, within the Applicants Blue-Line, along 'The Park' access road to accommodate a future right turn lane, for exiting traffic onto Glenamuck Road in accordance with drawing 'Title: Main Entrance Option 2 Right Turn Lane / Drawing Number: 5157618/HTR/SK/025 / Date: 26.06.18 / Rev.:A', when required by the Planning Authority to facilitate the overall 'The Park' development.
- f) The Applicant shall arrange at their own expense and to the satisfaction of the Planning Authority's Traffic Section for the necessary adjustments to all proposed road layout, markings, toucan traffic signals and associated works on Ballyogan Road and Glenamuck Road to accommodate the overall 'Quadrant 3, The Park' development (loops, reprogramming of signals, etc.). All cabling and electrical work shall be carried out by Dun Laoghaire-Rathdown County Council signal maintenance Contractor.
- g) Prior to construction of the proposed 'Quadrant 3, The Park' development the Applicant shall agree in writing with the Planning Authority detailed drawings and specifications for Ballyogan Link Road (Northfield Road Extension) designed to meet Dún Laoghaire-Rathdown County Council's 'Taking In Charge Policy Document (April 2016)': <http://www.dlrco.ie/en/planning/building-control/taking-charge> and 'Taking in Charge Procedure Document' and all to the satisfaction of the Planning Authority (Municipal Services Department) at the Applicant's own expense. For 'Taking-in-Charge' standards to meet a 40-year design life a minimum 200mm depth of flexible road surfacing is required for carriageway construction within all shared private and public space. The following minimum road construction surfacing depths are required:
- 40mm Clause 942, surface course
  - 60mm Clause 906, binder course
  - 100mm, base course macadam
  - minimum 150mm Clause 804
- h) Prior to construction of the proposed 'Quadrant 3, The Park' development the Applicant shall show on detailed drawings the proposed access

arrangements on Ballyogan Link Road (Northfield Road Extension) to lands that are not in the Control/Ownership of the Applicant.

- i) Prior to construction of the proposed 'Quadrant 3, The Park' development the Applicant shall show on detailed drawings a Way-leave map showing access along Ballyogan Link Road (Northfield Road Extension) via the public road/s to lands that are not in the Control/Ownership of the Applicant, until such time as Ballyogan Link Road (Northfield Road Extension) is Taken-In-Charge by Dún Laoghaire-Rathdown County Council.
  - i. The construction of Ballyogan Link Road (Northfield Road Extension) shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of Ballyogan Link Road (Northfield Road Extension). This plan shall provide details of intended construction practice for the works, including
  - ii. The hours of construction work.
  - iii. 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.
  - iv. Details of on-site car parking facilities for site workers during the course of construction.
  - v. Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network, including wheelwash facilities.
  - vi. Details of appropriate mitigation measures for noise and dust and monitoring of such levels.
  - vii. Details of site lighting and control and monitoring of site lighting levels. How it will be intended to avoid conflict between construction activities and pedestrian/cyclist movements on Ballyogan Road during construction works. A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.
- j) The Applicant shall ensure adequate space to access all the proposed bicycle parking spaces within the proposed 'Quadrant 3, The Park'

development in accordance with the Dun Laoghaire Rathdown County Council – Standards for Cycle Parking and associated Cycling Facilities for New Developments (January 2018) [http://www.dlrcoco.ie/sites/default/files/atoms/files/dlr\\_cycle\\_parking\\_standards\\_0.pdf](http://www.dlrcoco.ie/sites/default/files/atoms/files/dlr_cycle_parking_standards_0.pdf).

- k) The Applicant shall ensure that all proposed pedestrian and cyclist linkage routes within the Applicants Red-line for the the proposed ‘Quadrant 3, The Park’ development have a Level A Quality of Service in accordance with the NTA National Cycle Manual and the NTA Permeability Best Practice Guide.
- l) The Applicant shall ensure the allocation of a minimum of 1 standard car parking space for each residential apartment units. The car parking spaces for the residential apartment units must be sold off with the units and not sold separately or let to avoid non take up by residents who would then park elsewhere at adjoining residential estates where it will create a nuisance as well as undermining the demand management measures of parking constraint. The Applicant shall give an undertaking in this respect in writing.
- m) The Applicant shall ensure adequate space to access the storage units and the Comms x2 room within the proposed Residential Car Park as shown in the submitted drawing ‘Drawing: Site Layout Plan Level -01 Datum +82.50 / Drawing Number: P1009 / Date: March 2018 / Revision: B’.
- n) The Applicant shall ensure that 100% additional spare ducting shall be provided to the adjacent car parking spaces for the future provision of electric car charging points. The Applicant shall ensure that 5 no. of the proposed 54 no. street level car parking spaces will accomadate Electricity Operated Vehicles. The Applicant shall also ensure that all the 130 no. car parking spaces are constructed so as to be capable of accommodating future electric charging points as required. The following weblink is recommended <http://www.esb.ie/electric-cars/index.jsp>
- o) Prior to construction of the proposed ‘Quadrant 3, The Park’ development the Applicant shall submit details to the Planning Authority (Transportation Planning Section) for written agreement indicating the following:
  - i. Contact details of the appointed Travel Plan Coordinator for the proposed ‘Quadrant 3, The Park’ development.



- p) The Applicant and Travel Plan Coordinator shall implement the measures detailed in the submitted Travel Plan (by Atkins Rev 02 – 14/09/2018), to encourage future Residents, Visitors and Staff to use sustainable travel to and from the proposed ‘Quadrant 3, The Park’ development.
- q) The appointed Travel Plan Coordinator shall provide an annual report to the Planning Authority (Transportation Planning Section) for a period of 3 years showing what soft and hard measures have been implemented to promote an increased use of sustainable travel modes (walking, cycling, public transport, car share) to access the proposed ‘Quadrant 3, The Park’ development for Residents, Visitors and Staff and to achieve a modal split as per ‘Smarter Travel: A Sustainable Transport Future’, the Government National Transport Policy 2009 - 2020. This annual report should include the following:
- i. Results of annual travel survey carried out in the proposed Change of Use development for Residents, Visitors and Staff showing the number and percentage of people accessing the proposed ‘Quadrant 3, The Park’ development by each travel mode (walking, cycling, public transport, car share/car club, other)
  - ii. Details of all sustainable travel initiatives carried out during the year. E.g., Walk on Wednesdays, cycle on Fridays, Bike Week etc.
  - iii. Details of any promotional material or competition to promote sustainable travel to and from the proposed ‘Quadrant 3, The Park’ development. E.g ‘Quadrant 3, The Park’ newsletter, Smarter Travel literature etc.
- r) The first annual report shall be submitted within 12 months of the date of the final permission for the proposed ‘Quadrant 3, The Park’ development.
- s) For guidance for annual reports refer to National Transport Authority ([www.nationaltransport.ie](http://www.nationaltransport.ie))
- t) The Applicant shall implement and operate, all at their own expense, the proposed free Local Bus Route – to serve customers/staff/residents/visitors of the proposed ‘Quadrant 3, The Park’ development. The Applicant shall ensure that the Route and Times be finalised and agreed in writing with the DL RCC Traffic Section prior to construction of the proposed ‘Quadrant 3, The

Park' development. Any changes to the Route and Times will also have to be agreed in writing with the DLRCC Traffic Section.

- u) The Applicant shall ensure a delineated pedestrian route within the proposed street level car parking area.
- v) Prior to construction of the proposed 'Quadrant 3, The Park' development the Applicant shall submit a detailed design of the proposed 1.4m High Vehicle Protection Barrier along the perimeter of the proposed Bridge over the Ballyogan Stream and 'Greenway' in accordance with the NRA Standard TD 19/04 on Safety Barriers. This shall include the Containment Level of the Safety Barriers.
- w) All works to be carried out on the public road/footpath/cycletrack shall be at the Applicant's expense to meet the Dun Laoghaire-Rathdown County Council's 'Taking-in-Charge' requirements and all to the satisfaction of the Municipal Services Department.
- x) The Applicant shall carry out at their own expense the recommendations as accepted by the Designer in Appendix A. Road Safety Audit Feedback, in the submitted 'Quality Audit' Report by Atkins (date: September 2018), save as may be required by the other conditions attached hereto. Any proposed works on the public road shall be agreed with the Planning Authority (Traffic & Road Safety Section) prior to commencement of the proposed development. At the Applicant's expense a Stage 2 (detailed design) and post construction/ prior to opening stage (Stage 3) independent Quality Audit (which shall include a Road Safety Audit, Access Audit, Walking Audit and a Cycle Audit) shall be carried out for the development in accordance with the Design Manual for Urban Roads & Streets (DMURS) guidance and TII (Transport Infrastructure Ireland) standards. The independent Quality Audit team shall be approved by the Planning Authority and all measures recommended by the Auditor shall be undertaken unless the Planning Authority approves any departure in writing. The Stage 2 Audit reports shall be submitted for the written agreement of the Planning Authority prior to the commencement of development. The Stage 3 Audit reports shall be submitted for the written agreement of the Planning Authority prior to the

opening for public use/ taking in charge by Dun Laoghaire Rathdown County Council.

**Reason:** In the interest of the promotion of sustainable modes of transport, to control car parking, pedestrian and traffic safety and in the interest of the proper planning and sustainable development of the area.

**Condition No 26** - The Developer shall, prior to commencement or as otherwise agreed in writing with the Planning Authority, pay the sum of €4,324,774.04 to the Planning Authority as a contribution towards expenditure that was/or is proposed to be incurred by the Planning Authority in respect of the provision of the Roads Public Infrastructure and Facilities benefiting development in the area of the Authority, as provided for in the Development Contribution Scheme made by Dún Laoghaire-Rathdown County Council on the 14th December, 2015. These rates of contribution shall be updated effective from 1 January each year during the life of the Scheme in accordance with the SCSi Tender Price Index (See Article 12 of the Scheme) commencing from 1st January, 2018. Contributions shall be payable at the index adjusted rate pertaining to the year in which implementation of the planning permission is commenced, as provided for in Note 1 to the Table at Article 9 of the Scheme. Outstanding balances may be subject to interest charges.

**Reason:** It is considered reasonable that the payment of a contribution be required in respect of the provision of the Roads Public Infrastructure and Facilities benefiting development in the area of the Planning Authority and that is provided, or that is intended will be provided, by or on behalf of the Local Authority.

**Condition No 27** - The Developer shall, prior to commencement or as otherwise agreed in writing with the Planning Authority, pay the sum of €2,806,254.62 to the Planning Authority as a contribution towards expenditure that was/or is proposed to be incurred by the Planning Authority in respect of the provision of the Community & Parks Public Infrastructure, Facilities and Amenities benefiting development in the area of the Authority, as provided for in the Development Contribution Scheme made by Dún Laoghaire-Rathdown County Council on the 14th December, 2015. These rates of contribution shall be updated effective from 1 January each year during the life of the Scheme in accordance with the SCSi Tender Price Index (See

Article 12 of the Scheme) commencing from 1st January, 2018. Contributions shall be payable at the index adjusted rate pertaining to the year in which implementation of the planning permission is commenced, as provided for in Note 1 to the Table at Article 9 of the Scheme. Outstanding balances may be subject to interest charges.

**Reason:** It is considered reasonable that the payment of a contribution be required in respect of the provision of the Community & Parks Public Infrastructure, Facilities and Amenities benefiting development in the area of the Planning Authority and that is provided, or that is intended will be provided, by or on behalf of the Local Authority.

**Condition No 28** - A financial contribution shall be paid by the proposer to the Council towards the cost of the extension of Luas Line B from the Sandyford Depot to Cherrywood, namely Luas Line B1. This contribution to be paid prior to the commencement of the development or in such other manner as may otherwise be agreed with the Planning Authority. The rate of contribution payable shall be that pertaining to the particular year in which implementation of the Planning Permission is commenced. The Supplementary Development Contribution Scheme provides for an annual increase in the levels of contribution payable, as outlined in the scheme, by a factor of 5% compound interest per annum. The levels of contribution will be reviewed annually on the 13th of January of each year during which the scheme is in force to take account of the aforementioned increase. The rate of contribution payable in respect of this development, at current contribution rates, is €5,788,477.17, and is subject to increase as outlined above.

**Reason:** To part finance the extension of the Luas Line B1 from Sandyford Depot to Cherrywood, as provided for in the Supplementary Development Contribution Scheme adopted by the Council of Dun Laoghaire-Rathdown on the 13th of January, 2003 (incorporating amendments to Clause 13 as adopted by the County Council at its meeting on 13th May, 2013 – to be effective for all decisions from 14th May, 2013).

**Condition No 29** - Prior to construction of the proposed 'Quadrant 3, The Park' development a special contribution in the sum of €300,000.00 levied in accordance with Section 48(2)(c) of the Planning and Development Act, 2000, as amended,

shall be paid by the Applicant to the Planning Authority, to be expended on the future upgrade of the Glenamuck Road/The Park junction in accordance with drawing 'Title: Main Entrance Option 2 Right Turn Lane / Drawing Number: 5157618/HTR/SK/025 / Date: 26.06.18 / Rev.:A', when required by the Planning Authority to facilitate the overall 'The Park' development. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be updated effective from January 1 each year in accordance with the S.C.S.I. Tender Price Index Contribution shall be payable at the index adjusted rate pertaining to the year in which planning permission is commenced.

**Reason:** It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

### 3.2. **Planning Authority Reports**

#### 3.2.1. Planning Reports

#### 3.2.2. **Case Planners Report** (17<sup>th</sup> May 2018)

- Having considered the planning application the Case Planner recommended that further information be sought in relation to retail impact, apartment quality, transportation and movement, surface water drainage, flood risk assessment, part v provision, leisure use, car showroom, biodiversity, landscaping, phasing and taking in charge, waste and additional EIAR information.
- Further information was requested on the 17<sup>th</sup> May 2018

#### 3.2.3. **Case Planners Report** (5<sup>th</sup> December 2018)

- Having considered the further information submitted that Case Planner recommended that further clarification of further information be sought in relation to surface water drainage, flooding, Part V, leisure use, biodiversity, taking in charge, the EIAR and Appropriate Assessment.
- Clarification of further information was requested on the 5<sup>th</sup> December 2018.

3.2.4. **Case Planners Report** (no date available)

- Having considered the clarification of further information the Case Planner recommended that permission be granted subject to conditions. The notification of decision issued by DLRCC reflects this recommendation.

3.2.5. Other Technical Reports

3.2.6. Planning Application:

- **DLRCC Parks & Landscape Services** (14<sup>th</sup> February 2018) – Further Information sought.
- **DLRCC Housing Department** (24<sup>th</sup> April 2018) – Further Information sought.
- **DLRCC Air Pollution & Noise Control** (25<sup>th</sup> April 2018) - No objections subject to conditions set out in the report.
- **DLRCC Water Services** (30<sup>th</sup> April 2018) – Further Information sought.
- **DLRCC Biodiversity Officer** (10<sup>th</sup> May 2018) – Further Information sought.
- **DLRCC Transportation Planning** (14<sup>th</sup> May 2018) –Further Information sought.
- **DLRCC Drainage Planning** (16<sup>th</sup> May 2018) – Further Information sought.
- **Braniff Associates (Retail Consultant)** on behalf of DLRCC (10<sup>th</sup> May 2018) – Further Information sought.

3.2.7. Further information

- **DLRCC Drainage Planning** (9<sup>th</sup> November 2018) – Clarification of Further Information sought.
- **Braniff Associates (Retail Consultant)** on behalf of DLRCC (21<sup>st</sup> November 2018) – Scheme broadly acceptable from the statistical perspective of retail planning
- **DLRCC Transportation Planning** (22<sup>nd</sup> November 2018) – No objections subject to conditions set out in the report
- **DLRCC Lighting Section** (26<sup>th</sup> November 2018) - No objections subject to conditions set out in the report.

- **DLRCC Biodiversity Section** (28<sup>th</sup> November 2018) - Clarification of Further Information sought.
- **DLRCC Housing Part V** (29<sup>th</sup> November 2018) - Clarification of Further Information sought.

### 3.2.8. Clarification of Further Information

- **DLRCC Drainage Planning** (4<sup>th</sup> March 2019) – No objections subject to conditions set out in the report.
- **DLRCC Housing Part V** (8<sup>th</sup> March 2019) – No objections subject to conditions set out in the report.
- **DLRCC Air Pollution & Noise Control** (20<sup>th</sup> March 2019) - No objections subject to conditions set out in the report.
- **DLRCC Transportation Planning** (23<sup>rd</sup> March 2019) – No objections subject to conditions set out in the report
- **DLRCC Biodiversity Section** (20<sup>th</sup> March 2019) – No objections subject to conditions set out in the report
- **DLRCC Parks & Landscape Services** (27<sup>th</sup> March 2019) – No objections subject to conditions set out in the report.
- **DLRCC Transportation Planning** (28<sup>th</sup> March 2019) – No objections subject to detailed conditions set out in the report

## 3.3. Prescribed Bodies

### 3.3.1. Planning Application

- **Inland Fisheries Ireland (IFI)** (11<sup>th</sup> April 2018) – No objections subject to conditions set out in the report.
- **Health Service Executive (HSE)** (24<sup>th</sup> April 2018) - No objections subject to conditions set out in the report.
- **Transport Infrastructure Ireland (TII)** (24<sup>th</sup> April 2018) - No objections subject to conditions set out in the report.

- **Transport Infrastructure Ireland (TII)** (30<sup>th</sup> April 2018) – Concerns raised in relation to the operational safety and efficiency of the M50 and associated interchanges, the undermining of investment in the M50 improvements and the generation of high level car dependency.
- **Department of Culture, Heritage & Gaeltacht** (30<sup>th</sup> April 2018) - No objections subject to conditions set out in the report.
- **National Transport Authority (NTA)** (30<sup>th</sup> April 2018) – Any additional entrances onto the existing road network, Ballyogan Road, Glenamuck Road should be omitted in favour of providing site access from the internal road network of The Park.
- **Irish Water** (1<sup>st</sup> May 2018) – No objections

### 3.3.2. Further information

- **Department of Culture, Heritage & Gaeltacht** (26<sup>th</sup> October 2018 - No objections
- **Inland Fisheries Ireland (IFI)** (13<sup>th</sup> November 2018) – No objections subject to conditions set out in the report.
- **Transport Infrastructure Ireland (TII)** (14<sup>th</sup> November 2018) – Clarification of Further Information sought.
- **National Transport Authority (NTA)** (15<sup>th</sup> November 2018) – Quantum of the development is excessive for the requirements of the local neighbourhood. Recommended that further assessment should be undertaken to establish how the proposed quantum of car parking could be reduced and the reduction in parking should be stated condition for any subsequent grant of permission.

### 3.3.3. Clarification of Further Information

- **Health Service Executive (HSE)** (14<sup>th</sup> March 2019) - No objection
- **Transport Infrastructure Ireland (TII)** (25<sup>th</sup> March 2019) – The clarification of further information along with the further information does not address the official national policy in relation to control of development on / affecting national roads.



### 3.4. Third Party Observations

- 3.4.1. There are 6 no third party observations recorded on the planning file from (1) Ann & John Mulligan, (2) Tommy & Carmel Sheridan, (3) Sean Moore & Others, (4) Integrated Development Services Ltd, (5) Dundrum Retail General Partnership DAC and (6) Killiney Estates Ltd
- 3.4.2. The issues raised relate to retail impact, number of cinema screens proposed, habitat loss, archaeological impact, pollution, traffic impact, additional roadside parking, construction impact,
- 3.4.3. In response to the further information there was 1 no observation recorded on the planning file from Denis McGague Ltd. The issues raised relate to the inadequacies of the Cinema Study and traffic impact.
- 3.4.4. In response to the clarification of further information there was 1 no observation recorded on the planning file from Olivia Buckley. The issues raised relate to the impact of the retail development on Dundrum, Stillorgan and Dun Laoghaire and impact on local and national roads.

### 4.0 Planning History

- 4.1. The subject site is located within The Park, a retail park and office development, which consists of 4 distinct quadrants, the appeal site forms the north-east quadrant.
- The south-west (existing retail warehouse) and south-east (existing/proposed office, commercial) were approved as part of Phase 1 of the development (Reg. Ref. No. D02A/0558).
  - The north-west and north-east quadrants were subsequently approved by An Bord Pleanála (Ref. PL06D.208365) as part of Phase 2 of the development (Reg. Ref. D03A/1239).
  - The north-west quadrant was subject to a revised application, Phase 2A (Reg. Ref. D06A/0588) which increased the retail warehousing element of this proposed to 11,055 square metres.
  - The Northern part of the subject site, then under separate curtilage, had an application lodged (Reg. Ref. D06A/1411) for the demolition of 3 no.

dwellings and associated outbuildings and the construction of a 123 Unit Apartment Complex.

- The north-east quadrant, i.e. the appeal site, was subject to a separate application for the provision of a neighbourhood centre, offices and associated commercial uses, together with 369 no. residential units and 26 no. live/work units off a podium slab (Reg. Ref. D07A/0936).
- A further application (Reg. Ref. D08A/1422) proposing amendments was refused by DLRCC; the refusal was subsequently upheld by An Bord Pleanála (Ref. PL06D.233155).
- Following application D06A/1411 an application was lodged for demolitions as previous and construction of a 161 Unit Apartment Complex (Reg. Ref. D09A/0246); the application was refused and no appeal was made of the decision.
- A planning application for an extension to the internal road network, modifications to the District Centre permitted under D07A/0936 on a “substantially similar site”, and including the demolitions permitted under D06A/1411 (Reg. Ref. D12A/0163) was refused by DLRCC; the refusal was subsequently upheld by An Bord Pleanála (Ref. PL06D.240869) for two reasons summarised as follows:
  - 1) Having regard to the location and scale of retail floorspace proposed, it is considered that the proposed development, in addition to the existing level of retail activity in the vicinity, would conflict with the Retail Hierarchy for the Greater Dublin Area as set out in the Regional Planning Guidelines for the Greater Dublin Area 2010-2022 and the Retail Strategy for the Greater Dublin Area 2008-2016, neither of which identifies Carrickmines as a Level 3 District Centre.
  - 2) The substantial additional traffic volumes likely to be generated by almost 60,000 square metres of additional development at this location would give rise to a high level of car dependency, promote unsustainable use of the local road network, adversely affect the operational safety and efficiency of the national road network and undermine the benefits of public investment same.

## 5.0 Policy Context

### 5.1. National & Regional Planning Policy

#### 5.1.1. National Planning Framework (NPF) 2018

5.1.2. The NPF makes provision to accommodate an extra one million people living in Ireland through the development of jobs growth as well as new homes. The NPF provides for increasing urbanisation of the population and achievement of critical mass in large multi-faceted town centres. The NPF supports the development of underutilised land within the metropolitan area through well designed higher density development.

#### 5.1.3. Retail Planning Guidelines for Planning Authorities (2012)

5.1.4. The Guidelines emphasise that enhancing the vitality and viability of city and town centres in all their functions through sequential development is an overarching objective in retail planning. The Guidelines are accompanied by a Retail Design Manual which seeks to provide guidance on design principles within the planning policy guidance framework.

#### 5.1.5. Spatial Planning & National Roads Guidelines for Planning Authorities (2012)

5.1.6. The Guidelines are aimed at ensuring that local authorities in their planning and transport roles work proactively with the National Roads Authority ensuring that transport and land use planning considerations are taken into account at the early stages of both development plan and development management processes. This is to ensure that future development in the vicinity of national roads is guided to the most suitable location and that development on the national roads network is planned for and managed in a complementary and integrated manner.

#### 5.1.7. Guidelines for Planning Authorities on “The Planning System and Flood Risk Management” (2009)

5.1.8. The purpose of the Guideline is to introduce “*comprehensive mechanisms for the incorporation of flood risk identification, assessment and management into the planning process*”. The Guidelines further states that:

*Planning authorities will ensure that only developments consistent with the overall policy and technical approaches of these Guidelines will be approved*

*and permission will be refused where flood issues have not been, or cannot be addressed successfully and where the presence of unacceptable residual flood risks to the development, its occupants or users and adjoining propriety remains.*

**5.1.9. The Greater Dublin Area Transport Strategy (2016-2022)**

5.1.10. The purposes of the strategy is to “*contribute to the economic, social, and cultural progress of the Greater Dublin Area by providing for the efficient, effective and sustainable movement of people and goods*”.

**5.1.11. Design Manual for Streets and Urban Roads (DMURS) (2013 & 2019)**

5.1.12. DMURS aims to end the practise of designing streets as traffic corridors, and instead focus on the needs of pedestrians, cyclist and public transport users. The Manual sets out design guidance and standards for constructing new and reconfiguring existing urban roads and streets in Ireland. Incorporating good planning and desing practise and focus on the public realm, it also outlines practical design measures to encourage more sustainable travel patterns in urban areas.

**5.1.13. Sustainable Residential Development in Urban Areas (2009)**

5.1.14. The Guidelines set out the key planning principles to guide the preparation and assessment of planning applications for residential development in urban areas. This is based around best practise design, development management, planning for sustainable neighbourhoods, density, making efficient use of lands, amenity and quality of open space.

**5.1.15. Guidelines for Planning Authorities – Design Standards for New Apartments (2018)**

5.1.16. The Guidelines promote sustainable housing by ensuring that the design and layout of new apartments provide satisfactory accommodation and parking provision for a variety of household types and sizes, including families with children, over the medium to long term.

**5.1.17. Regional Planning Guidelines for the Greater Dublin Area (2010-2022)**

5.1.18. The Guidelines set out the planned direction for growth within the Greater Regional Dublin Area up to 2022 by giving effect to national planning policy under the National Spatial Strategy (NSS) at regional level. The appeal site is located in the

Metropolitan Area of the GDA. The Dublin Metropolitan Area is targeted for increased development, particularly those lands that are readily acceptable by public transport and roads infrastructure. The Guidelines state that:

*Development within the existing urban footprint of the Metropolitan area will be consolidated to achieve a more compact urban form, allowing for the accommodation of a greater population that at present, with much-enhanced public transport system, with the expansion of the built up areas providing for well-designed urban environments linked to high quality transport networks, enhancing the quality of life for residents and workers alike.*

#### 5.1.19. **Retail Strategy for the Greater Dublin Area (2008-2016)**

5.1.20. The Strategy aims to set out a co-ordinated, sustainable approach to the assessment and provision of retail within the GDA.

### 5.2. **Development Plan**

5.2.1. The operative plan for the area is the **Dun Laoghaire Rathdown Development Plan 2016 – 2022**. There are two zoning objectives pertaining to this site as follows:

***Objective E** – To provide for economic development and employment*

***Objective F** – To preserve and provide for open space with ancillary active recreational amenities*

5.2.2. There is a **Six Year Road Objective** for a link road from The Park, Carrickmines to Ballyogan Road traversing this site and the adjoining site to the north-west. There is an indicative **Proposed Bus Priority Route** along Park Avenue and Northfield Road which defines the sites southern and western boundaries respectively. There is also an objective to “*protect and preserve Trees and Woodlands*” on site.

5.2.3. In addition a Site Specific Objective 131 for the provision of a Neighbourhood Centre was assigned to the site as follows:

*To provide for the development of a Neighbourhood Centre in the north-east ‘quadrant’ of the Park, Carrickmines, with a net retail floorspace cap of 6,000 square metres and a leisure facility, which will help meet the existing and future retail and leisure needs of the growth areas of Carrickmines, Stepside, Ballyogan and Kiltiernan-Glenamuck.*

5.2.4. The appeal site is located in the 'primary growth nodes' of Carrickmines and Stepside – Ballyogan as identified in the core strategy of the County Development Plan (Section 1.2.5.1 of the plan).

5.2.5. Since the lodgement of the planning application at Quadrant 3 on the 26<sup>th</sup> March, 2018, the **Ballyogan and Environs Local Area Plan 2019 - 2025** has been adopted (1<sup>st</sup> July 2019). The LAP sets out policies in respect of the Park Carrickmines including references to SLO 131 of the County Development Plan. The overarching vision statement is supplemented by brief vision statements pertaining to each of the identified quarters within the LAP area (Figure 1.5 Quarters & Neighbourhoods refers). The following is stated in relation to the Carrickmines Quarter:

*The Plan will support the delivery of a Neighbourhood Centre for the north-east Quadrant of The Park, Carrickmines, while securing the overall primary use of these lands for Employment. Pedestrian and cyclist links through this Quarter and to adjacent areas will be improved. Further infill residential development of sites within this Quarter will be facilitated while ensuring successful integration with existing development.*

5.2.6. Policy BELAP MOV12 – New Linkages: this policy seeks *to provide or facilitate the delivery of the new linkages shown in Table 4.6 and Figure 4.11 – Movement Strategy*. Link No 19 the Park Carrickmines to Ballyogan Road adjoins the western boundary of the appeal site. It is stated that this link is a requirement of existing planning permissions and also a requirement of the County Development Plan

5.2.7. Policy BELAP RET13 – Neighbourhood Centre provides a specific policy for the north east quadrant of The Park as follows:

*To provide for the development of a Neighbourhood Centre in the north-east quadrant of the Park, Carrickmines, with a net retail floorspace cap of 6,000 square metres and a local level leisure facility, which will help meet the existing and future retail and leisure needs of the growth areas of Carrickmines, Stepside-Ballyogan and Kiltiernan-Glenamuck.*

5.2.8. Policy BELAP RET16 relates to the provision of residential development at Quadrant 3 and states as follows:

*To encourage residential use above ground floor level within this Neighbourhood Centre to maintain and improve the area's vibrancy and vitality, providing that the Neighbourhood Centre's prime land use objectives are complemented and not undermined.*

### **5.3. Natural Heritage Designations**

- 5.3.1. The site is not located within a designated Natura 2000 site. The relevant European sites in this case is the Rockabill to Dalkey Island SAC which is located c6km from the appeal site.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

- 6.1.1. There is a first party appeal (Input PLC) against conditions together with 4 no third party appeals from (1) Olivia Buckley, (2) Movies@Dundrum, (3) Barbara & Aidan O'Malley and (4) Dundrum Retail Limited Partnership. The appeal may be summarised as follows:

### **6.2. Input PLC (First Party)**

#### **6.2.1. Condition No 4 (Road Access / Phasing)**

- 6.2.2. Condition 4(a) (Ballyogan Link Road (Northfield Road Extension)) – Considered to be unreasonable and unnecessary.

- 9 months to complete would lead to significant delay
- Impact funding and viability of the project
- Proposed to be delivered in the first phase and completed prior to operation of other elements
- Draft phasing submitted considered acceptable

#### **6.2.3. Condition 4(b) (Proposed Apartments & Block B)**

- Similar to (a) above
- Overly prescriptive, onerous and unnecessary

- Amend Condition No 4 in accordance with phasing proposal submitted as further information and clarification of further information in line with SLO 131 of the Development Plan.
- Existing and proven demand for neighbourhood centre facilities in the area.
- Appropriate to deliver neighbourhood centre at an early stage within the first phase
- Timing of Office Block D would depend on achieving a pre-let with an occupier
- No planning purpose to prevent the construction of the neighbourhood centre until such time as the office building is pre-let, constructed and complete.
- Neighbourhood centre is not dependent on the completion of Block D

6.2.4. Condition 4(c) (Greenway – available to General Public)

- Revise condition so that areas of the park restricted due to construction or other elements of the development or requirements for planting to take hold be available for use no later than 6 months after the operation of the neighbourhood centre commences

6.2.5. Condition 4(d) (Neighbourhood Centre operation before to Retail Warehousing)

- Similar to (b)
- Overly prescriptive
- No rationale / justification
- No requirement for this link
- Amend No 4 to deliver in accordance with phasing as set out in the further information and clarification of further information

6.2.6. Inadequate reasoning. Phasing is not set out in the Development Plan.

6.2.7. **Condition No 10(d)** – Bulky goods / Retail Warehousing

- Retail warehousing is limited to bulky goods.
- Less than 20% is used for the sale of ancillary products
- Application is superfluous
- Requirement for submission of floorplans is onerous and impractical
- Sufficient to conform that the ratio will be in accordance with Guidelines



6.2.8. **Condition No 26** – S.48 Development Contribution €4,324,774.04 (Roads, Public Infrastructure)

- No information available
- Examination required
- Scheme incorporated significant elements of roadway which will benefit surrounding areas
- Link road will cost €3million and should be offset against a portion of this contribution
- Suggested amended wording provided.

6.2.9. **Condition No 27** – S.48 Development Contribution €2,866,254.62 (Community & Parks)

- Significant area of publicly accessible 2 ha park to be built, landscaped and maintained
- Offset cost in this condition
- Significant community gain proposed
- Suggested amended wording provided.

6.2.10. **Condition No 28** – S.49 Supplementary Development Contribution €5,788,477.17 (Luas B Line)

- Rationale and calculations not made available by DLRCC
- Amend agree details. Similar to Clay farm condition.
- Suggested amended wording provided.

6.3. **Olivia Buckley**

- Request for an Oral Hearing
- No requirement in this area for another, large retail centre, it is not designated in the Retail Hierarchy, has no residential catchment that couldn't be served by local shops and it is not located on a major motorway interchange
- Retail warehousing is over scribed in Dublin. Suspected that the developer will eventually change the use and other non-bulky goods.

- Contrary to the Spatial Planning and National Roads Guidelines for Planning Authority (2011) and the Retail Planning Guidelines for Planning Authorities (2012)
- The proposed development along with the massive centre that is already there will give rise to significant traffic congestion on the local road network and Glenamuck Road and Ballyogan Road.
- The traffic generated will massively interfere with the national and local network in the area, create serious traffic congestion on the M50 and be contrary to the Proper Planning and Sustainable Development of the Area.
- The development is contrary to the zoning objective for the site.
- It is disingenuous to call this a “neighbourhood centre” and is completely misleading and inaccurate and contrary to the Retail Planning Guidelines and the DL RCC Development Plan 2016-2022.
- The new proposed large scale retail / leisure development (c.30,000 sqm) when taken in conjunction with existing retail floorspace (c.30,000 sqm) will create a shopping destination of regional significance. This will hit places locally like Dundrum, Dun Laoghaire and Stillorgan.
- The area also has enough cinemas within 10 minute radius and doesn’t need another massive cinema. There is no justification for same. They should be in designated urban centres such as Dundrum and Stillorgan.

#### 6.4. **Movies@Dundrum**

- Request for an Oral Hearing
- An Bord Pleanála requested to refuse planning permission.
- The main objection related to the 7 screen multi-plex cinema element of the development.
- The south Dublin area is well served by cinema operators.
- Traditionally a mainstay of Irish towns, there has been an increasing pressure from certain quarters to move the business to the suburbs and to avail of rent, access and parking convenience.

- The appellant relies on the planning system to protect the investment that companies such as Movies@Dundrum make and which maintain the vitality and viability of their own centres.
- The role of the proposed cinema must be considered in the context of the cumulative impact of the overall development and “The Park” as a destination for shopping and leisure activities that are increasingly co-located.
- The overall development proposed taken together with the existing Phase 1 and 2 retails floor space would represent one of the largest destinations at the Dublin Region.
- To present the proposed cinema as a “local” cinema does not stand to scrutiny. The proposal is on par with any other cinema operating in Dublin in terms of scale, quality and draw.
- The accessibility on the M50, the ample parking (surface & basement) and possible rent inducements will impact the appellants business.
- The “Cinema Study Report” by The Big Picture (2018) makes inaccurate representation about existing cinema environment and in particular makes the assertion that there is only “one cinema serving the south at Dundrum”.
- The applicant has failed to address DLRCCs further information requests and calls of demand are not backed up by empirical analysis.
- Given the availability of land, if a cinema were to be permitted here, there is ample space for additional screens to be added at a future date. Even as things stand a 7 screen cinema is inappropriate for this location.
- If the applicants representation of the catchment as being local and south of the M50 were credible, then “proper planning” rationale follows that these cinema goers should be encouraged to use the LUAS to Dundrum and / or Cherrywood rather than drive to the proposed Carrickmines development. In this regard the entire preposition fails to take account of the traffic impact of the overall development on the local and national road network.

## 6.5. **Barbara & Aidan O’Malley (Ballyogan Road)**

### 6.5.1. Road Safety

- Development might if unchecked would result in additional kerbside parking in the area given its proximity to the LUAS stop.
- The red line boundary extends to include an area within the public realm which is outside the appellant's home. Submitted that this would be open to the developer to provide ornamental bollards on or beside the edge of the carriageway which would control parking in this area.
- Condition No 5 requires the developer to allow public access to part of the site. This requirement is unlawful.
- If the aggregate number of on-site bays is reduced by 60 (Condition No 11 refers) and if the residential parking provision is restricted to 1 no space / apartment (Condition No 9 refers) the likelihood of kerbside parking outside the appellants home would increase and would be detrimental to the safety and free flow of traffic using Ballyogan Road.

#### 6.5.2. Residential Amenity

- Reference is made to Section 8.2.3.2 of the DLRCC Development Plan
- Concern with the impact of construction works on residential amenities
- Requested that development works between restricted to 08.00 – 18.00 Mon to Fri with no building works outside these times.

#### 6.6. **Dundrum Retail Limited Partnership (DRLP)**

- Request for an Oral Hearing
- DRLP is not opposed to new development in Carrickmines and has no objection in principle to development of appropriate uses on this site.
- **Neighbourhood Centre** – The proposed retail floorspace is excessive for a neighbourhood centre and, in particular, where the centre is not zoned or part of the designated retail hierarchy, where there is no significant immediate residential catchment population to justify the level of retail provision and where the cumulative impact with the existing retail floorspace provision must be taken into consideration.
- **“Retail Warehousing”** – The units identified as retail warehousing are two-storey retail units with basement car parking of a type that will trade in

comparison goods (as opposed to “bulky goods” only) and that are contrary to the sequential approach and the presumption against such developments in Retail Planning Guidelines, the GDA Retail Strategy (2008) and the cautionary approach advocated in the County Development Plan.

- **Regional Cinema Attraction and Leisure Uses** – A large cinema development and other large leisure uses proposed in the application are contrary to the sequential approach to such commercial leisure facilities advocated in Policy E16 of the Development Plan and will undermine the viability of existing Town and District Centre where such facilities should be located.
- **Destination Food and Beverage Offer** – There is no policy justification for the level of food and beverage uses proposed at this location and, in combination with the retail and cinema/leisure uses, these evening entertainment uses will undermine the viability of existing Town and District Centres where such facilities should be located.
- **Roads and Transportation** – DRLP agree with the submissions made by the NTA/TII that the proposed development is excessive in terms of its catchment and will undermine investment in the strategic road network (particularly Junction 15 and M50) and will contribute to unsustainable car dependency due to a regional draw and the lack of a sufficient local population catchment to justify the scale of development proposed.
- **DLRCC Core Strategy / Retail Hierarchy** – The development is a Material Contravention of the Development Plan and contrary to a range of regional, national and sectoral planning policies. Approval of a development of the type now proposed at Carrickmines, which is out of conformity with such fundamental provision of local, regional and national planning policy, would send a negative message of uncertainty to funders and investors seeking to invest in Dún Laoghaire-Rathdown, and in particular those investing in the designated Major Town Centre and District Centres in the County.
- **Environmental Impact Assessment** – The EIAR submitted has failed to adequately assess the cumulative effects of the proposed development on existing material assets and has failed to consider alternative locations for the uses proposed.

- **Process and Decision** - While the planning system facilitates ‘further information’ and ‘clarification of further information’ stages and entails the attachment of conditions, the extent to which this development proposal was dependent on these processes to elicit important information and detail and the extent to which the attachment of conditions was deemed necessary to enable the eventual grant of permission is concerning. The rationale for the grant of permission at planning authority level hinged unduly heavily on the fact of a specific SLO relating to a neighbourhood centre and insufficiently on testing or analysing the underlying conditions that would justify such an SLO such as up-to-date population growth projections.
- **Conditions** - The notification of intention to grant permission contains one of the most complex and detailed set of traffic-related conditions ever attached to a planning permission and far from being reassuring, there is a concern that those conditions represent an imperfect effort to seek to avoid a fundamental traffic problem in the making. For example the extent of traffic-related conditioning in the decision – from condition 11(a) through to condition 11(w) is striking in its extent – to the point where the Board must look into whether the preferable/appropriate course of action to accept the core concerns of the expert consultee, the TII.

#### 6.7. Applicant Response (INPUT) (10<sup>th</sup> June 2019)

- 6.7.1. The applicants response addresses each of the third party appeals as follows:
- 6.7.2. **Dundrum Retail Limited Partnership DAC**
- 6.7.3. ‘Dundrum Retail Limited Partnership DAC’ is not a person entitled to make an appeal for the purposes of Section 37(1)(a) of the Planning and Development Act 2000, as amended (‘the 2000 Act’). Furthermore, it appears that the appellant company does not actually exist. The appeal must therefore be considered invalid.
- 6.7.4. Proposed Neighbourhood Centre
  - There is a clear and longstanding need and objective for the delivery of a neighbourhood centre at this location. The subject site is located within a

significant growth area in Dún Laoghaire-Rathdown, and within the area of the forthcoming Ballyogan and Environs LAP.

- The proposed development now provides for the realisation of this well-established objective for the subject site.
- The previously proposed district centre is replaced by a neighbourhood centre of much smaller scale.
- The subject site has been designated as a neighbourhood centre in the CDP by way of an SLO (which is included on the zoning map) and has been designated as a neighbourhood centre in the Retail Hierarchy for the county (see Table 3.2.1 of the CDP – DLR Retail Hierarchy).
- The current proposal accords with the scale of retail provision provided for under SLO 131 and is of a scale that is appropriate for the location and context of the subject site.
- The detailed RIS submitted with the application and updated at FI stage fully factors in all existing and permitted retail floorspace in the catchment area including existing neighbourhood centres.

#### 6.7.5. Retail Warehousing

- The retail warehousing proposed within the development is not an exercise in ‘labelling’ retail floorspace to circumvent a cap on retail provision. These units have been specifically designed to accommodate retail warehousing use and will be bound to remain in this use pursuant to the application as submitted, in accordance with the definition in the Retail Planning Guidelines.

#### 6.7.6. Location of Proposed Retail Warehouse Development and the Sequential Test

- As set out in the submitted Retail Impact Study, there are very limited opportunities for provision of retail warehousing in Dún Laoghaire-Rathdown. As requested, Dún Laoghaire-Rathdown County Council have identified that there are only two suitable locations for the provision of additional retail warehousing in its evidence to the Oral Hearing on the Cherrywood SDZ in respect of this issue. These are Park Carrickmines and Sandyford Business Estate/Stillorgan Industrial Park.

#### 6.7.7. Presumption Against Retail Warehousing

- In this respect it is noted that the proposed development is located within an established retail warehousing location, adjacent to high quality public transport, adjacent to the proposed neighbourhood centre, and therefore complies with the guidance set out in the Retail Planning Guidelines in respect to the location of retail warehousing units. The range of goods sold will accord with the requirements of the Retail Planning Guidelines. There is a significant under provision of retail warehouse floorspace in DLR as explained in the submitted RIS.

#### 6.7.8. Function of the Proposed Retail Warehousing

- These units have been designed from the outset to accommodate retail warehouse operators and to respond to an existing market demand for retail warehousing. The retail warehouse units, while served by underground car parking, will also provide for surface car parking access. The development is not a shopping centre.

#### 6.7.9. Cinema and Leisure Uses

- The planning authority applied a specific condition to the decision to grant permission, which copper-fastened the level of seating to be provided in the cinema at 900 seats. The current proposal which includes a leisure facility is clearly not a material contravention of the Development Plan. On the contrary, the current proposal directly responds to and delivers on the policies of the current planning policy framework.

#### 6.7.10. Food & Beverage Uses

- The proposed development is designed to serve local and not regional demand for café and restaurant provision. It will be modest in scale in comparison to the provision in Dundrum which functions as a regional centre.

#### 6.7.11. Roads and Transportation

- Parking Provision - The accompanying technical note prepared by Atkins Consulting Engineers sets out that (for completeness) the traffic and transport impacts of Clay Farm Phases 1 and 2 have been assessed by Atkins, and it has been established that the projections in the submitted. The applicant submits that proposed total of public spaces in Q3 could be reduced by way



of condition by up to 200 spaces if the Board consider this appropriate, i.e. from 910 spaces to c.710 spaces (this would be achieved by a simple reduction in size of the proposed basement car parking area).

- NTA and TII Objections and TTA - The Atkins TTA did use gross floorspace figures and not net floorspace figures as suggested in the appeal. The appeal highlights concerns relating to pedestrian and cycle connectivity. The current proposal includes provision for high quality infrastructure for pedestrians and cyclists throughout, including within the significant parkland element of the scheme.

#### 6.7.12. DLRCC Development Plan Core Strategy & Retail Strategy

- The Draft LAP document clearly demonstrates that the subject site is located within an area of significant existing and planned population, and there is clearly a neighbourhood and locality which the proposed development will serve. This again reflects the zoning and core strategy objective of the County Development Plan.

#### 6.7.13. Environmental Impact Assessment

- The Board, in assessing the current appeals, will be required to undertake its own EIA of the proposed development. As part of this EIA, it will be obliged to assess the adequacy of the information furnished by the applicant in relation to the likely significant effects of the proposed development. On this basis, any perceived inadequacy in the EIA conducted by the planning authority is a moot point.
- Cumulative Assessment - The cumulative assessment within the EIAR has been set out within each individual chapter, rather than compiling these findings at one point within the EIAR. There is no requirement to do so and this approach which has been effectively utilised in many EIARs to date and confirmed as being in accordance with the EIA Directive by Competent Authorities such as An Bord Pleanála.
- Alternatives Studied - The Directive does not include a requirement for an EIAR or EIA to consider alternatives in respect of all of the alternative types (project design, technology, location, size and scale), rather the EIAR must describe the reasonable alternatives studied by the developer.

- Material Assets - While the material assets chapter does not include a specific section relating to potential impacts on retail or commercial operators arising from the proposed development as these are economic rather than environmental issues, a detailed Retail Impact Assessment was submitted with the planning application and further updated at Further Information Stage.
- Climate Change - A note prepared by Byrne Environmental Consulting Limited (BECL) is submitted setting sets out that the Air Quality and Climate chapter of the EIAR (as updated at FI stage) provides an appropriate assessment of the likely effect of the proposed development on air quality and climate.

#### 6.7.14. **Movies@Dundrum**

- The DLRCC decision to grant permission applied a condition to strictly cap the cinema capacity at 900 seats. The applicant would accept a similar condition from the Board, which should be sufficient to allay the concerns of the appellants in this respect.
- It is envisaged that there will be no fundamental or direct relationship between the scale and footfall of the retail park and the requirement for the provision of a cinema at this location, rather it is the population in the surrounding local catchment area which will primarily be catered to by this cinema facility.

#### 6.7.15. **Olivia Buckley**

- The subject site is designated as a location for a neighbourhood centre within the county retail hierarchy and the scale of retail provision proposed is specifically provided for under SLO 131 pertaining to the subject site.
- The proposal has been subject to detail retail impact assessment and a independent retail impact assessment undertaken by Braniff Associates on behalf of DLR has also confirmed that there is capacity for the proposal.
- The application documentation submitted in respect of the current proposal included a thorough assessment of the proposed development against all relevant planning policies at the national, regional and local level, which

found the proposed development to be consistent with these policies, including the policy documents referenced by the appellant.

- The site is located on a high quality public transport corridor and will provide significant new pedestrian and cycle links including the new link road to Ballyogan Wood Luas Stop from the Park.

#### 6.7.16. **Barbara and Aidan O'Malley**

- **Illegal Parking** - The applicant would accept a condition requiring the installation of bollards or similar to ameliorate the issues with illegal parking currently experienced by the appellants.
- **Residential Amenity** - It is submitted that a restrictive condition in terms of the hours during which development could proceed would be unduly onerous, and it is respectfully requested that the Board apply a condition specifying standard working hours as has been included on the DLR decision to grant permission (i.e. 0800 to 1900 Monday to Friday and 0800 to 1400 on Saturdays, with no work taking place on Sundays or Bank Holidays).

6.7.17. The planning application was accompanied by an Environmental Impact Assessment Report. The planning application, including EIAR was subject to revisions at Further Information and Clarification of Further Information stages.

6.7.18. This overall appeal response document is accompanied by the following inputs which have been designed to respond to specific elements of the third party appeals:

- Transport and Traffic Response document prepared by Atkins Consulting Engineers.
- Context illustrations and maps of surrounding development prepared by HJL Architects.
- Statement on retail context and retail warehousing prepared by BNP Paribas.
- Response in relation to the assessment of climate change prepared by Byrne Environmental Consulting Limited.
- Letter from A & L Goodbody Solicitors regarding company search for 'Dundrum Retail Limited Partnership DAC'.

## 6.8. Planning Authority Response

- Planning Authority have provided a very detailed and thorough report which address the issues raised
- The proposal does not represent a material contravention of the current Development Plan
- The cinema proposed is smaller than that proposed under the 2008 application
- The immediate surrounding area is residential and rapidly growing. This is an appropriate location for a neighbourhood centre to serve the new and emerging communities.
- Condition No 4 – Phasing of the development is important. Considerable thought went into the phasing condition. What is important is that there is the delivery of a neighbourhood centre, the residential element that will provide vitality and activity and the delivery of the road.
- Conditions No 5 – Relates to access to the proposed greenway which is part of the development
- Condition No 10(d) – This is as per the County Development Plan.
- Condition No 26 – The calculations were applied in accordance with the scheme. The Ballyogan Link Road is essential to the delivery of this proposed development and is a requirement of the permission subject to appeal that the Link Road is provided. The Section 48 contribution is need for the delivery of infrastructure throughout the county and an offset in this instance would compromise this objective and create a precedent.
- Condition No 27 – Similar to Condition No 26. There is an obligation on the developer to provide a minimum of 10% of the site for opens space. Any offset would compromise the delivery of much needed infrastructure countywide.
- Condition No 28 – No issue with alternative wording proposed.

## 6.9. Observations

### 6.9.1. Transport Infrastructure Ireland (TII) (22<sup>nd</sup> July 2019)

- Any diminution or dilution of the proposed mitigation and / or of the conditions applied to the grant of permission has the potential to result in increased impact on the adjoining M50 and Junction 15.
- TII supports the decision of the Council and the conditions applied to the grant of permission and recommends against any diminution in the nature or effect of the relevant conditions applied.
- TII note that the applicant has acquired the adjoining lands at Q2 the Park. TII has no objection to the reduction in public car parking provision associated with the scheme by up to 200 spaces from 910 to 710 spaces.
- In the interests of safeguarding the strategic function of the M50 and associated junctions of the subject site, TII respectfully requests that if the Board is mindful to grant permission for the development proposed that the conditions applied by DLRCC that effect to safeguard the adjoining national road network would be included in any decision to grant planning permission.
- Conditions related to LUAS contributions should apply. Condition No 28 refers.

### 6.9.2. Transport Infrastructure Ireland (TII) (31<sup>st</sup> July 2019)

- TII has no role in the administration of contributions.

## 6.10. Further Responses (Additional comments)

### 6.10.1. Dundrum Retail Ltd Partnership DAC (DLRP) (10<sup>th</sup> June 2019)

- Response to 1<sup>st</sup> and 3<sup>rd</sup> Party Appeal
- Support the appeal by Movies@Dundrum
- The appeal by Olivia Buckley is consistent with DLRP position
- Condition No 4(a), (b) & (d) – Road should be delivered by the developer. There should be no issues with the upfront delivery of apartments. Retail and leisure elements need to be refused based on the considerations outlined in the grounds of appeal.

- Condition No 10(d) – The removal of this condition would make any planning enforcement proceedings more difficult.
- Condition No 26, 27 & 28 – No comment

6.10.2. **DLRCC Childcare Committee** (10<sup>th</sup> July 2019)

- No comment

6.10.3. **DLRCC Contributions** (23<sup>rd</sup> July 2019)

- Details of the methodology underpinning the financial contribution conditions attached to the notification of decision to grant permission.

6.10.4. **DLRCC Contributions** (23<sup>rd</sup> July 2019)

- Refer to previous planners report.

6.10.5. **Dundrum Retail Ltd Partnership DAC (DLRP)** (22<sup>nd</sup> July 2019)

- DLRCC Response – This is a material contravention of the Development Plan.
- INPUT Response – The Ballyogan & Environs LAP does not provide support for the current proposal.
- Appeal by DLRP is valid
- The Brannif Associates report appears to have been confined to the quantitative assessment rather than interrogating the principle of the development and does not interrogate the extent of the catchment areas used.
- The applicant's submission that considers the relative scale of the current proposal compared to previous schemes on the site. It does not attempt to reconcile the current proposals against the concept of a neighbourhood centre.
- No potential retail warehouse operators or types of uses are identified.
- The proposed cinema of the nature and scale proposed is in material contravention of Policy E16 of the Development Plan.
- Due regard to the impacts on the strategic road network in this appeal taking into account the concerns of the NTA / TII in relation to Junction 15 in this application and in other instances is required.

- The cumulative impact of the overall development at The Park Carrickmines has not be adequately assessed.

#### 6.10.6. **INPUT** (24<sup>th</sup> July 2019)

- Leisure uses is open for consideration in E zoned lands. The leisure facility is not therefore a material contravention for the development plan as it accords with the zoning objectives pertaining to the site.
- The applicant has addressed Policy E16 of the Development Plan (relating to the sequential location of cinemas) and has also reduced the capacity of the proposed cinema.
- The proposed neighbourhood centre will help to address a significant under provision of retail services and leisure facilities within the surrounding area, based on the current and projected population growth in the vicinity.
- A degree of flexibility is required with regard to phasing. It would be wholly appropriate for the Board to apply a condition requiring that the development be delivered in accordance with suggested condition.
- In relation to the conditions pertaining to Section 48 development contributions it is submitted that an element of offsetting would be appropriate.

#### 6.10.7. **INPUT (Contributions)** (14<sup>th</sup> August 2018)

- Application of Scheme - Any final calculation of Section 48 contributions in respect of the proposed development should take account of the fact that any units to be provided as part of a Part V agreement with the Planning Authority must be excluded from the calculation of contributions for the scheme
- Offsetting S48 Contributions – Considered appropriate to provide for an offset against the development contribution sought for roads and community / parks infrastructure in order to recognise the significant elements of such infrastructure which will be delivered as part of the proposed development.
- S49 Contributions – The existing road infrastructure within the Park which is included within the red line boundary of the proposed development should not be subject to additional S49 contributions. The omission of these areas from the net site area by the planning authority to calculate the S49 contribution for the proposed development would result in a commercial site area of 5.5273

ha, with a residential site area of 0.5662 ha. This would result in a total S49 contribution of €4,632,328.82.

## 7.0 Assessment

7.1. This assessment is based on the plans and particulars submitted with the planning application on the 28<sup>th</sup> March 2018, as amended by further plans and particulars submitted by way of further information on the 12<sup>th</sup> October 2018 and further clarification of further information submitted on the 18<sup>th</sup> February 2019 together with other plans and particulars submitted throughout the appeal process.

7.2. Having regard to the information presented by the parties to the appeal and in the course of the planning application and my inspection of the appeal site, I consider the key planning issues relating to the assessment of the appeal can be considered under the following general headings:

- Principle
- Design & Layout
- Retail Impact
- Cinema Provision
- Traffic Impact
- Flooding
- Development Contributions
- Other Issues
- Appropriate Assessment
- Environmental Impact Assessment

## 8.0 Principle

8.1. Permission is sought for a retail / commercial development comprising a neighbourhood centre, retail warehouses, cinema and other leisure space, residential units, crèche, office space, car showroom, medical centre, linear park and associated works (as amended) by way of further information and clarification of further information on a site of 10.5 ha at lands known as Quadrant 3, The Park,



Carrickmines, Dublin 18. The proposed development (as amended) are as described in Sections 2 above.

- 8.2. The appeal site forms the north-east quadrant of the larger area known as 'The Park', which comprises of a mix of commercial, office and retail warehousing uses. The site is currently undeveloped and primarily zoned Objective 'E' under the Dún Laoghaire-Rathdown County Development Plan 2016-2022 where the objective *is to provide for economic development and employment*. A smaller section within the site is zoned Objective F where the objective it is *to preserve and provide for open space with ancillary active recreational amenities*.
- 8.3. In addition there is a Six Year Road Objective for a link road from The Park, Carrickmines to Ballyogan Road along the western boundary of the site. There is also a Site Specific Objective 131 for the provision of a Neighbourhood Centre that was assigned to the site as follows:

*To provide for the development of a Neighbourhood Centre in the north-east 'quadrant' of the Park, Carrickmines, with a net retail floorspace cap of 6,000 square metres and a leisure facility, which will help meet the existing and future retail and leisure needs of the growth areas of Carrickmines, Stepside, Ballyogan and Kiltiernan-Glenamuck.*

- 8.4. Since the lodgement of the planning application in March 2018, the Ballyogan and Environs Local Area Plan 2019 - 2025 has been adopted (1st July 2019). The LAP sets out policies in respect of the Park Carrickmines including references to SLO 131 of the County Development Plan. The overarching vision statement is supplemented by brief vision statements pertaining to each of the identified quarters within the LAP area (Figure 1.5 Quarters & Neighbourhoods refers). The following is stated in relation to the Carrickmines Quarter:

*The Plan will support the delivery of a Neighbourhood Centre for the north-east Quadrant of The Park, Carrickmines, while securing the overall primary use of these lands for Employment. Pedestrian and cyclist links through this Quarter and to adjacent areas will be improved. Further infill residential development of sites within this Quarter will be facilitated while ensuring successful integration with existing development.*

- 8.5. In overall terms the appeal site is strategically located in terms of connectivity to public transport infrastructure. The range of uses proposed within the development are fully in accordance with the zoning objectives and specific local objective pertaining to the site in terms of being “acceptable in principle” and “open for consideration”. Further the landscaped linear park is proposed on the northern side of the proposed development, in the area of the site which is zoned for open space purposes and is acceptable. The provision of a mixed use Neighbourhood Centre development at this location, in direct proximity to Ballyogan Wood Luas Stop, the proposed Quality Bus Corridor and existing public bus services, will ensure that the neighbourhood centre shopping, leisure and community needs of this developing area are met in a sustainable manner.
- 8.6. Overall I am satisfied that the proposed use accords with the policies for the area as set out in the County Development Plan and the Local Area Plan. I consider the proposed scheme at this location to be acceptable in principle subject to the acceptance or otherwise of site specifics / other policies within the development plan and government guidance.

## 9.0 Design & Layout

- 9.1. I refer to the Design Statement prepared by Henry J. Lyons Architects that includes a detailed rationale for the urban design approach and layout of the proposed development. It is evident that the proposal has been designed through a comprehensive design and development process at pre-application stage with DLRCC and that permeability and the creation of a vehicular and pedestrian link to Ballyogan Road and Ballyogan Wood LUAS Station was central to the design evolution.
- 9.2. The proposed scheme comprises a mix of building types centred around the main shopping streets and the proposed linear park. The retail warehouses front onto Park Avenue to the south and create a buffer between the retail park and the neighbourhood centre positioned directly behind. Retail units are located along the pedestrian neighbourhood street predominantly located to the west of the neighbourhood square. The principal urban space, a neighbourhood square is positioned at the heart of the new development and overlooks the public park. The

office block is located at the corner junction of the new Link Road and the Ballyogan Road. The residential block fronts the neighbourhood square to the west. The centre piece is the massing of the cinema which is expressed as a cylinder and is clad in a louvered double skin which is bronze in colour. It is noteworthy that as a result of the scheme servicing solution the proposed development has no rear façade and thus no non-active facades.

- 9.3. The proposed scheme is in my view a well-considered contemporary development that responds to both its context and the stated development plan objectives for the site with a scheme that offers a distinctive design departure from the existing car centred retail / office park. This scheme successfully addresses the micro scale of the development internally at the street level through its permeability and also at the macro level to the external roads adjoining the property in terms of design, scale, public realm, overlooking and active frontages. Overall I support the design and layout of the scheme.
- 9.4. Policy UD6 of the Development Plan recommends that new development accords with the content of the “Building Height Strategy” for the County. The strategy notes that in respect of larger development sites, such as Carrickmines, heights greater than 6 stories have been permitted. Provision is made for greater height within larger greenfield areas and in certain exceptional circumstances such as in significant commercial or employment zones such as Carrickmines. The proposed development is predominantly based over ground and first floor levels, with cinema, office and residential uses extending above this. The residential Block B and Block D are both comprised of 6 no storeys with cinema use to level 3. The maximum height is 29.4m. I am satisfied that the proposed scheme complies with the Development Plan in terms of height and reflects the existing development located within the Park.
- 9.5. The scheme provides a high quality linear park (1.5ha) to the north of the main neighbourhood centre and to the south and east of commercial Office Block D. The park is focused around the Ballyogan Stream in accordance with zoning Objective F. The park has been designed to create a strong link with the proposed Jamestown Park and Greenway Spine to the west, improving permeability and pedestrian and cycle links to the Luas. A new pedestrian / cycle bridge linking the neighbourhood centre and adjoining neighbourhoods with the Ballyogan Wood transport

interchange. I agree with the applicant that this linear park will provide a community gain for the existing and proposed residential communities and employment population in the area and ensure integration with the wider area.

- 9.6. The proposed development includes 130 no apartment units. A mix of 1, 2 and 3 bedroom units is provided as detailed in the Housing Quality Assessment submitted with the application. Residential proposals are sufficiently provided for in terms of car and bicycle parking. Furthermore the pedestrian and cycle routes through the site, via the linear park provide easy access to high quality public transport links found nearby at Ballyogan wood LUAS stop and Kiltiernan QBC. I agree with the applicant that the residential element is fully justified in the context of the accessibility to existing and planned transport infrastructure found nearby. In terms of apartment design, types and size I am satisfied that the development generally complies with the requirements set out in the sustainable Urban Housing: Design Standards for New Apartments (2018) in terms of mix, dual aspect, size, internal storage, daylight / sunlight, storage, private amenity space and aggregate floor area.
- 9.7. Overall I am satisfied that the building form and layout responds to its site and context and will not detract from the visual amenities of the area. I consider the design response to this site to be of a high quality that accords with current best practice. Accordingly there is no objection to the design and layout of the development proposed (as amended) at this location.

## 10.0 Retail Impact

- 10.1. Significant concern is raised throughout the appeal in relation to the scale of the neighbourhood centre, the nature and function of the retail warehousing proposed and that the proposed development would impact negatively on the viability of Dundrum Town Centre. I refer to the retail reports and particulars available to view on file.
- 10.2. It is clear that the provision of a neighbourhood centre at this location has been a long-standing objective within County Development Plans for Dún Laoghaire-Rathdown. As set out in Section 8 above both the current Development Plan and the Ballyogan and Environs Local Area Plan 2019 – 2025 have identified this appeal site as suitable for the provision of a Neighbourhood Centre with a net retail

floorspace cap of 6,000 square metres and a leisure facility. Further the site has been designated as a neighbourhood centre in the Retail Hierarchy for the county (see Table 3.2.1 of the CDP – DLR Retail Hierarchy refers). The net retail floor space proposed is 5,588sqm. This accords with the scale of retail provision provided for under Site Specific Objective 131 as set out in the Development Plan to help serve the growth areas of Carrickmines, Stepside, Ballyogan and Kiltiernan-Glenamuck and is therefore of a scale that is appropriate for the location and context of the appeal site.

- 10.3. In the Retail Strategy for the Greater Dublin Area neighbourhood centres are described as usually containing one supermarket ranging in size from 1,000 – 2,500 sqm. This proposal is for 2 supermarkets but their total; net floorspace (2,181 net sqm) lies within the floorspace range stated in the Development Plan (1,000 – 2,500 net sqm) and is therefore acceptable.
- 10.4. It is stated that the proposed neighbourhood centre has been specifically identified to accommodate a retail offer of the appropriate scale and nature proposed and to meet the existing and future retail and leisure needs of the growth areas of Carrickmines and help address the significant deficit in the Ballyogan LAP area. The RIA assessment for the proposed development has confirmed that there is more than adequate capacity for the current proposal. The Braniff report commissioned by the planning authority supports this conclusion, even when precautionary / conservative population and expenditure figures are applied.
- 10.5. It is noted that the detailed Retail Impact Statement (RIS) submitted with the application and updated at Further Information stage factors in existing and permitted retail floorspace in the catchment area including existing neighbourhood centres. The RIS establishes that there will be no significant impact on Dundrum Town Centre due to the proposed development. The report demonstrates that underlying population and expenditure growth will more than balance out any very marginal trade diversion from Dundrum Town Centre to the proposed Carrickmines Q3 development.
- 10.6. In relation to retail warehousing the RIS, states that there are very limited opportunities for the provision of retail warehousing in Dún Laoghaire-Rathdown. As stated by Braniff Planning Consultants *the fact that there is an established retail park*

*at this location is an important material consideration in determining whether further retail warehousing is acceptable in principle at Carrickmines.*

- 10.7. It is stated that DLRCC identified that there are only two suitable locations for the provision of additional retail warehousing in its evidence to the Oral Hearing on the Cherrywood SDZ in respect of this issue. These are Park Carrickmines and Sandyford Business Estate/Stillorgan Industrial Park. The appeal site is located within an established retail warehousing location at Carrickmines, adjacent to high quality public transport and to the now proposed neighbourhood centre, and therefore complies with the guidance set out in the Retail Planning Guidelines in respect to the location of retail warehousing units.
- 10.8. The retail warehouse units, while served by underground car parking, will also provide for surface car parking access. There is a clear difference in the configuration of the retail warehouse units compared with the neighbourhood centre, again reflecting their clearly distinct function. I agree with the applicant that the use of underground parking for the proposed retail warehouse units provides for a sustainable and 'urban' form of development and allows for the introduction of other uses such as residential and offices and leisure facilities, resulting in a more efficient use of serviced urban land that is well served by public transport.
- 10.9. Overall I am satisfied that the proposed development accords with the plan-led approach espoused in the Retail Planning Guidelines and the principles of sustainable development as it will provide a new neighbourhood centre for adjacent communities and is located in close proximity to the Ballyogan Wood Luas Green Line Station and the proposed Kiltiernan Quality Bus Corridor (QBC). It is recommend that should the Board be minded to grant permission that a condition similar to Condition No 10 of the notification of decision to grant permission issued by DLRCC be attached restricting the net permitted retail space to 6,000 sqm net, requesting that no retail units shall be extended, sub-divided or merged internally, no additional mezzanine floors be provided in the retail warehousing units, the use of the retail warehousing units be limited to bulky goods and that the restaurants not be used as a fast food/take away outlets.

## 11.0 Cinema Provision

11.1. I note the concerns raised in the appeal in relation to the 7 screen multiplex cinema that was reduced from 1,200 seats to 900 seats by way of clarification of further information. The current DLRCC Development Plan allow for the consideration of cinemas at this location. As such there is no policy basis for preventing a cinema in the development scheme. Matters relating to competition between cinemas is not a matter for comment by the Board.

## 12.0 Traffic Impact

12.1. Concern is raised in the appeal that the scheme will give rise to significant traffic congestion on the local road network and Glenamuck Road and Ballyogan Road and that it will also interfere with the national and local network in the area. In line with the submissions made by the NTA/TII it is submitted that the proposed development is excessive in terms of its catchment and will undermine investment in the strategic road network (particularly Junction 15 and M50) and will contribute to unsustainable car dependency. I also note the specific concern in relation to the complexity and detailed set of traffic-related conditions set out in Condition No 11(a) to (w) inclusive. The full wording of Condition No 11 is set out in Section 3.1 above.

12.2. I refer to the Transport and Traffic assessments and reports on the file. The appeal site is surrounded by a series of important distributor roads including Ballyogan Road, Glenamuck road, Glenamuck Link road, which connect to the M50 and the wider area to the west of the M50. As set out in Section 2 above access to / from the site will be provided as follows (as amended):

- A vehicular entrance is proposed off Glenamuck Link Road via Park Avenue, providing access to the surface car park and basement car park via a ramp. A break in the central median will be provided to allow for the proposed access.
- A left in, left out access and exit is proposed onto Glenamuck Link Road along the eastern boundary of the site was amended at further information stage whereby the proposed “left-in” arrangement from the Glenamuck Link Road was omitted.

- A dedicated access road is proposed for the residential units from Ballyogan Road.
- A further entrance and exist is proposed off the Ballyogan Road for the Office Building (Block D).
- The scheme includes a proposed new link road through an extension of Northfield Road to Ballyogan Road to the north of the site.
- This link road will be a two way c.10m wide road which will provide a direct pedestrian, cycle and vehicular link to Ballyogan Wood Luas stop.
- The extension of Northfield Road to Ballyogan Road will require the partial culverting and re-alignment of 90 metres of the Ballyogan Stream on the north western boundary of the site.
- A roundabout is proposed off the Northfield Road which will provide a customer and servicing access and exit to the basement car park.
- The proposal provides for upgrades to Ballyogan Road, upgrades to Park Avenue and Glenamuck Link Road, including a new inset bus bay and pedestrian crossing along the Glenamuck Road.
- Block A, B and C will provide 966 no. car parking spaces in two levels of basement car parking, together with 54 no. of surface car parking space and cycle spaces,
- Block D will provide 130 no. of basement car parking spaces over two levels.

12.3. I have considered the information available on file. Overall I am satisfied that given the location of the appeal site and the layout of the proposed scheme (as amended) together with the proposal to provide the new link road that the vehicular movements generated by the scheme would not have a significant material impact on the current capacity of the road network in the vicinity of the site or conflict with traffic or pedestrian movements in the immediate area. Overall I am satisfied that the proposed development will not result in the creation of a traffic hazard.

12.4. The notification of decision to grant permission issued by DLRCC sought a reduction in the overall provision of parking by 60 no spaces (Condition No 11 refers). The applicant in their response to the appeal states that they have taken ownership of the Q2 element of The Park (south-west quadrant), in addition to its ownership of Q1 (north-west quadrant) and that having given further consideration to the quantum of



publicly available car parking spaces to be provided in the proposed scheme in the context of the overall public parking provision for Q1, Q2 and Q3 is satisfied that a reduced public parking provision could be applied to the proposed Q3 scheme. In this regard the applicant submits that proposed total of public spaces in Q3 could be reduced by way of condition by up to 200 spaces if the Board consider this appropriate, i.e. from 910 spaces to c.710 spaces (this would be achieved by a simple reduction in size of the proposed basement car parking area). This reduction would subsume the DLRCC Condition No 11 to reduce the overall parking provision in Q3 by 60 spaces. I support this revised parking provision and recommend that should the Board be minded to grant permission that a condition regarding same be attached.

12.5. With regard to the detailed nature of Condition No 11 as set out by DLRCC I agree with the appellant that it is a particularly lengthy and complex condition. However I also note the report of Transport Infrastructure Ireland (TII) that states that should the Board be minded to grant permission that the conditions applied by DLRCC that effect to safeguard the adjoining national road network would be included in any decision by the Board. Particular reference is made to the following condition in the grant of permission. The full wording of these conditions is set out in Section 3 above.

- Condition No 4 – Phasing and the order of priority ascribed to development
- Condition No 10 – Limitations and control of use of the retail warehousing element of the development
- Condition No 11 – Transportation and car parking related provision of the permission granted
- Condition No 28 – LUAS Line B1 levy
- Condition No 29 –Glenamuck road / The Park Junction upgrade

12.6. TII state that any diminution or dilution of the proposed mitigation and / or of the conditions applied to the grant of permission has the potential to result in an increased impact on the adjoining M50 and Junction 15. Condition No 4 is dealt with separately in Section 15. Condition No 10 has been dealt with in Section10 above and Condition No 28 and 29 are dealt with in Section 14 below.

12.7. A review of the sub sections of Condition No 11 reveal that much of the condition requires compliance with plans and particulars already submitted and considered as part of the planning assessment. I am satisfied that compliance with submitted plans and particulars is generally dealt with under the first condition of any grant of permission whereby the development is required to be carried out and completed in accordance with the plans and particulars submitted and as amended. Accordingly in the event of a grant of permission a large number of the requirements of Condition No 11 can be omitted. There are however, a number of requirements in Condition No 11 that in my view should be attached to any grant of permission in relation to parking control, provision of car parking spaces, access arrangements, adjustments to proposed road layout, compliance with 'Taking-in-Charge' requirements, allocation of residential car parking, appointment of a travel co-ordinator, implementation of local bus route, Road Safety Audit and accommodation of Electricity Operated Vehicles. Condition No 16 in the recommendation below refers. With regard to the construction of the Ballyogan Link Road (Northfield Road Extension) I agree that this should be explicitly stated in the conditions and is therefore dealt with in further detail in Section 15 below. I am satisfied that the amended Condition No 11 (now Condition No 16 in the recommendation below) is necessary, relevant, enforceable, precise and reasonable and that the matters to be agreed relate to points of detail and are not a fundamental nature or such that third parties could be affected.

### **13.0 Flooding**

- 13.1. The site is currently classified as a greenfield/brownfield site. There are a number of watercourses that run through the site or surrounding area. The most notable from a flood risk perspective is the Carrickmines / Shanganagh River which runs through the northern half of the site. The Glenamuck North Stream is located c.50 metres to the south of the site. The Ballyogan Stream traverses the north-western section to the proposed development site.
- 13.2. Extensive flooding is predicted for 10% AEP, 1% AEP and 0.1% AEP events along the northern portion of the proposed development site and this is reflected in this portion being designated as Flood Zone A on Map 9 of the DLRCC Flood Zone maps.

- 13.3. A report examining the existing hydrological / hydrogeological environment and the potential impacts of the proposed development on that receiving environment has been prepared and submitted with the planning application. I refer to the Flood Risk Assessment carried out by JBA Consulting submitted with the planning application. I also refer to the reports of the DLRCC Drainage Planning Section.
- 13.4. A review of the Eastern CFRAM flood maps confirmed that c.30% of the site lies within Flood Zone A/B (predominantly Flood Zone A). It is submitted that flooding within the site appears to result from the undersized culvert at the downstream boundary of the site. Floodwaters backup upstream of the culvert following surcharging of the system, and subsequently overflows onto the Ballyogan Road.
- 13.5. As part of the proposed development, a dedicated landscaped park amenity has been provided for use by the residents onsite and wider area. It is stated that the proposed landscaping will involve changes to the existing site topography, which potentially could impact on flood risk in the study area. As part of the main flood risk mitigation measures, compensatory flood storage has been provided to ensure no increase in flood risk resulting from the development.
- 13.6. The key findings of the flood risk appraisal and mitigation strategy is summarised as follows:
- All structural developments are restricted to Flood Zone C within the southern half and north-western corner of the site.
  - Any development within Flood Zone A is limited to water compatible uses such as landscaping and access roads, (as confirmed in the hydraulic modelling).
  - Access to any development within the site is provided from Flood Zone C.
  - Residual risks have been identified as potential increase in stream flows due to climate change and potential blockage of the downstream culvert. The site is shown not to be sensitive to the identified residual risks.
  - The proposed FFL ensures that the site is protected against flooding from the 1% to 0.1% AEP flood events. Based on an initial assessment, the minimum FFL at the site is 79 metres OD, which provides a freeboard of 4.35 metres and 4.17 metres from the 1% and 0.1% AEP events respectively.

- The Glenamuck North Stream to the south of the site has been assessed and it is confirmed that this watercourse does not present a flood risk to the proposed development.
- Following the proposed landscaping, the post-development scenario results in a reduction on the peak flows through the Ballyogan Road culvert and a corresponding reduction in flood levels downstream of the site.

13.7. The results from the hydraulic model confirm that the proposed mitigation measures (compensatory storage) maintains or reduces flood levels onsite and does not increase flood risk upstream or downstream of the development.

13.8. In summary, all commercial and residential buildings will be located within Flood Zone C. A sufficient freeboard is provided from the 0.1% AEP flood level and the minimum FFL. Residual risks have been assessed for the development and confirm that the development is not at risk from climate change or blockage of the Ballyogan Road culvert system. The results from the hydraulic modelling confirm that the applicant of the compensation flood storage has been successful at the site. Furthermore, there is no increased risk of flooding upstream or downstream of the site.

13.9. Having regard to the information available on the appeal file there is no objection to the proposed development in terms of flooding. However should the Board be minded to grant permission it is recommended that a condition be included requiring the development to comply with the requirements of the relevant DLRCC Water Services and Drainage Departments together with the mitigation measures set out in the appeal file.

## 14.0 Development Contributions

14.1. The first party has appealed Condition No 26 (Section 48), condition No 27 (Section 48) and Condition No 28 (Section 49) development contribution conditions. The full wording of each condition is set out in Section 3.1 above. The relevant contribution scheme in this case is the Dun Laoghaire Rathdown County Council Section 48 Development Contribution Scheme 2016-2020 as adopted on 14<sup>th</sup> December 2015 and the Section 49 Supplementary Development Contribution Scheme for Extension of LUAS Line B1 – Sandyford to Cherrywood as adopted on the 13<sup>th</sup> January 2003.

These schemes are applicable to all planning permissions except where exemptions apply. Section 10 and Section 13 of both schemes, respectively sets out categories of development that will be exempted from the requirement to pay development contributions or will pay a reduced rate under the scheme.

- 14.2. **Condition No 26** - €4,324,774.04 Section 48 Development Contribution in respect of the provision of the Roads Public Infrastructure and Facilities benefiting development in the area of the Authority.
- 14.3. The applicant submits that the proposed development incorporates significant elements of roadways which will benefit the surrounding area. The incorporation of the Link Road into the overall development in accordance with a specific 6 year road objective of the County Development Plan represents an investment of significant resources in the upgrading of the local road system. This 6 year road objective is also included in the Ballyogan & Environs LAP. The applicant submits that an element of the considerable expenditure on the new Link Road (which it is stated will cost in the order of €3 million) should offset a portion of the Section 48 Development Contribution in respect of roads infrastructure.
- 14.4. It is accepted that the proposed link road is at its very essence a sensible planning objective and that its delivery is central to the development of these lands and as such is a requirement of any grant of permission. While I agree with the Planning Authority that the Section 48 contributions are needed for the delivery of infrastructure throughout the county I do not believe that an offset in this instance would compromise this objective and create a precedent as the Link Road is meeting a specific development plan objective. While there is no stated provision for such an exemption within the current Section 48 Scheme I agree with the applicant that the realisation of this development plan objective will benefit development the wider area of the planning authority and therefore it is considered reasonable to offset the cost of same against the relevant development charge.
- 14.5. Accordingly in this case it is recommended the cost of the delivery of this link road be off set against the Section 48 charges and that the following wording be attached to any relevant condition:

*The expenditure incurred by the developer in the construction of the Ballyogan Link Road forming part of the development, which is a 6 year*

*objective of the Dun Laoghaire Rathdown County Development Plan shall be offset against the above contribution amount.*

- 14.6. **Condition No 27** - €2,806,254.62 Section 48 Development Contribution in respect of the provision of the Community & Parks Public Infrastructure, Facilities and Amenities benefiting development in the area of the Authority
- 14.7. The applicant submits that having regard to the very significant area of publicly accessible park to be built, landscaped and maintained by the developer as part of the proposed development, the costs of this significant contribution towards the amenity and public park infrastructure in the area should be recognised by way of an offsetting of the contribution required under Condition No 27.
- 14.8. In this regard I agree with the Planning Authority that not only is there an obligation on the developer to provide a minimum of 10% of the site for open space but the provision of the linear park and associated wider public landscaping is part and parcel of the first principles of good planning and urban design. There is no stated provision for an exemption within the current Section 48 Scheme applicable in this instance and therefore the full and relevant charge should be applied in accordance with the scheme.
- 14.9. **Condition No 28** – €5,788,477.17 Section 49 Supplementary Development Contribution to part finance the extension of the Luas Line B1 from Sandyford Depot to Cherrywood.
- 14.10. The applicant raised concern initially that as the rationale and calculations leading to the development contributions sought in respect of the proposed development had not been made available to the applicant by the Planning Authority that this condition be amended to allow the agreement of details between the applicant and the Planning Authority.
- 14.11. The DLRCC response to the Boards Section 132 request sets out the Section 49 contribution for the proposed development was calculated on the basis of a residential site area of 0.15830 ha, with the remaining area of the site to which the contribution was applied considered as commercial site area. However the applicant submits that the Planning Authority were mistaken in their calculation of the residential site area. It is further submitted that the existing road infrastructure within The Park which is included within the red line boundary of the proposed

development should not be subject to additional Section 49 contributions. In addition it is submitted that the future development site should be omitted.

14.12. Having regard to the forgoing I support the request of both the applicant and the Planning Authority that the Boards standard Section 49 unspecified condition be attached with details to be agreed with the Planning Authority or in default the Board.

14.13. **Condition No 29** – This condition sought a contribution in the amount of €300,000.00 toward the future upgrade of the Glenamuck Road/The Park junction in accordance with drawing ‘Title: Main Entrance Option 2 Right Turn Lane / Drawing Number: 5157618/HTR/SK/025 / Date: 26.06.18 / Rev: A’, in order to facilitate the overall ‘The Park’ development. This condition has not been appealed by any party to the appeal. However as stated in Section 12 above, TII is of the opinion that any diminution or dilution of the conditions attached by DRLCC (as set out in the TII report) including Condition No 29 has the potential to result in an increased impact on the adjoining M50 and Junction 15.

14.14. A special development contribution may be imposed under section 48(2)(c) where specific exceptional costs, which are not covered by the general contribution scheme, are incurred by a local authority in the provision of public infrastructure or facilities which benefit very specific requirements for the proposed development, such as a new road junction or the relocation of piped services. The particular works should be specified in the condition. Only developments that will benefit from the public infrastructure or facility in question should be liable to pay the development contribution. I am satisfied that the upgrade works meet this criteria and therefore recommend that should the Board be minded to grant permission that a similar condition be attached.

14.15. **Part V** - With reference to Section 10(f) of the DLRCC Section 48 Development Contribution Scheme 2016-2020 I agree with the applicant that any final calculation of Section 48 contributions in respect of the proposed development should take account of the fact that any units to be provided as part of a Part V agreement with the Planning Authority must be excluded from the calculation of contributions for the scheme.

## 15.0 Other Issues

15.1. **Revised Phasing Scheme** – The first party has appealed Condition No 4, as summarised below. The full wording of this condition is set out in Section 3.1 above.

The development shall be carried out on a phased basis in accordance with a revised phasing scheme:

- a) The Ballyogan Link Road (Northfield Road Extension) shall be constructed and operational before the commencement of development works for the overall development
- b) The proposed apartments and Block D shall be completed before the operation of neighbourhood centre commences
- c) The park including greenway shall be available for use by the general public before the operation of neighbourhood centre commences
- d) The neighbourhood centre and leisure use shall be in operation before the occupation of the retail warehousing.

15.2. It is noted that the phasing set in Condition No 4 is a departure from the phasing proposal submitted by way of further information which proposed the main bulk of development and the link road being delivered as a first phase of development with Block D to follow as a second phase. It is also noted that detailed construction phasing drawings were also included as part of the Construction Environmental Management Plan (CEMP) submitted along with the clarification of further information response.

15.3. Overall I agree with the applicant that some requirements set out in Condition No 4 would significantly impact on the deliverability of the overall development proposal which is contrary to local planning policy which seeks the delivery of neighbourhood facilities at this site together with the Ballyogan Link Road (Northfield Road Extension). In this regard I consider it unreasonable to prevent the commencement of the overall development until the prior completion and operation of this link road. Accordingly I recommend that Condition No 4(a) be amended requiring that the Ballyogan Link Road (Northfield Road Extension) is constructed and operational prior to the occupation of any part of the overall 'Quadrant 3, The Park' development to ensure the efficient and timely completion of the scheme.



- 15.4. I note the requirement of Condition No 4(b) that the proposed apartments and Block D be completed before the operation of neighbourhood centre commences together with the applicants submission as to why it would be wholly appropriate to deliver the neighbourhood centre at an early stage within a first phase of development. However I am of the view that the stated requirement is reasonable to ensure the delivery of much needed housing and the satisfactory and timely completion and operation of the site.
- 15.5. I note the requirement that the park including greenway be available for use by the general public before the operation of neighbourhood centre commences. I agree with the applicant with regard to the “reasonableness” of this conditions. Accordingly it recommended that areas of the park restricted due to construction of other elements of the development or requirements for planting to take hold shall be available for use no later than 6 months after the operation of the neighbourhood centre commences with details to be agreed with the Planning Authority.
- 15.6. With regard to the requirement that the neighbourhood centre and leisure use be in operation before the occupation of the retail warehousing I agree with the applicant that this condition is overly prescriptive. While I support the principle of the condition I recommend that it be amended to require the neighbourhood centre and leisure use to be in operation within 6 months of the occupation of the retail warehousing.
- 15.7. **Retail Warehousing** - The first party has appealed Condition No 10(d). The full wording of this condition is set out in Section 3.1 above. Condition No 10(d) required that the retail warehousing is limited to bulky goods and that no more than 20% of net floors space is used for the sale of ancillary products. I agree with the applicant that the requirement for the submission of floorplans is onerous and impractical and that it is sufficient to require the applicant, by way of condition, that the ratio of bulky goods to ancillary goods offered will be in accordance with the Retail Planning Guidelines (2012). Compliance and enforcement of conditions is a matter for the Planning authority.
- 15.8. **Construction Impact** - I note the concerns raised in relation to construction impact. There will inevitably be disruption during the course of construction, however such can be minimised to acceptable levels with appropriate standard working / construction procedures such as controlling construction hours, dust minimisation

etc. I am satisfied that this matter can be dealt with by way of a suitably worded condition requiring the submission of a construction management plan for agreement. With the attachment of such a condition I do not consider that the construction phase of the development would give rise to an unreasonable impact on neighbouring properties in this instance.

15.9. **Kerbside Parking on Ballyogan Road** – I note the concerns raised by the residents on Ballyogan Road that the development might if unchecked result in additional kerbside parking in the area given its proximity to the LUAS stop. I also note the request to provide ornamental bollards on or beside the edge of the carriageway which would control parking in this area. I am satisfied that the scheme (as amended) meets the standard car parking requirements for a development of this nature and scale. Therefore excessive on street car parking cannot be anticipated.

15.10. **Archaeology** - West of the development site, evidence of the Pale Ditch boundary is recorded. Given the linear nature of the monument it is thought that the Pale would have originally continued eastward to intersect with the Carrickmines Castle defences c400m east and potentially traversing the location of the development site. Overall I am satisfied that subject to a suitably worded condition whereby the applicant is required to employ a suitably qualified archaeologist in advance of development and that any material found is notified to the Department and that recording of any such material found shall be facilitated there is no objection to the proposed scheme.

## 16.0 **Appropriate Assessment**

16.1. The application is accompanied by a Screening Report for Appropriate Assessment (March 2018) and a further Screening Report for Appropriate Assessment (January 2018).

### 16.2. **Project Description and Site Characteristics**

16.3. The site location and proposed development are as described in Sections 1 and 2 above. The main phases of the project include:

- Site clearance and preparation.
- A construction phase using standard building materials.

- Construction will include a new surface water drainage infrastructure and connection to electricity and wastewater networks.
- The culverting of the Carrickmines Stream to accommodate a new access road.
- The extension of Northfield Road to Ballyogan Road (Link road) will require the partial culverting and re-alignment of 90 metres of the Ballyogan Stream on the north western boundary of the site.
- An operation phase whereby the buildings will be occupied
- A landscaping phase which will include the creation of an amenity park along the banks for the stream.

16.4. The site is currently classified as a greenfield/brownfield site. There are a number of watercourses that run through the site. The Carrickmines / Shanganagh River runs through the north eastern section of the site. This is a short water course which rises in the Dublin Mountains to the west. It is heavily modified as it passes through the city. It is stated that it joins the Shanganagh Stream and together they discharge into Killiney Bay at Ballybrack c 4.5km from the site and at a point that is not within any Natura 2000 sites.

16.5. The Ballyogan Stream traverses the north-western section of the proposed development site and flows from the west to the east. It is approximately 1m wide at its maximum and is culverted immediately before it enters the site and again as it leaves the site where it flows under the Ballyogan Road and the M50 motorway. It is stated that the Ballyogan Stream in turn outfalls to the Carrickmines River which outfalls to the Irish Sea at Ballybrack via Loughlinstown River c 4.5km from the site and at a point that is not within any Natura 2000 sites.

16.6. The appeal lands are surrounded by roads and other artificial land uses including commercial and residential development, the M50 and the LUAS line.

16.7. Surface water from the development lands currently drains to the Ballyogan Stream which in turn outfalls to the Carrickmines River which outfalls to the Irish Sea at Ballybrack via Loughlinstown River.

16.8. **Natura 2000 Sites, Qualifying Interests and Conservation Objectives**

16.9. The site is not located within or directly adjacent to any Natura 2000 site.

- 16.10. The Screening Report states that foul wastewater from the proposed development will be sent to the wastewater treatment plant at Shanganagh in Dublin c4.5km from the appeal site. The point at which the discharge from the Shanganagh wastewater treatment plant enters the sea is not within any Natura 2000 sites. As stated the foul wastewater from the proposed development will be sent to the wastewater treatment plant at Shanganagh in Dublin. There is sufficient capacity in the Shanganagh Bray wastewater treatment plant to provide for the predicted future growth of this part of the city. Emissions from the plant are currently in compliance with the Urban Wastewater Treatment Directive.
- 16.11. The Screening Report further states that Poulaphouca Reservoir SPA (Site Code 4063), from which drinking water supply for this development will originate is the only Natura 2000 site within the zone of influence of the development. At its nearest point the Poulaphouca Reservoir SPA is located approximately 22km upland from the site of the proposed development. While the development is dependent on Poulaphouca for its water supply this project is not related to consent for that abstraction and same is authorised elsewhere.
- 16.12. As set out above both the Carrickmines Stream and Ballyogan Stream discharge to the Irish Sea at Ballybrack via Loughlinstown River c 4.5km from the site and at a point that is not within any Natura 2000 sites. The nearest Natura Site from this discharge point and of most relevance is the Rockabill to Dalkey Island SAC (003000). Detailed conservation objectives for this sites are available on the NPWS website and may be summarised as follows:

<b>Site Name and Site Code</b>	<b>Conservation Objectives and Qualifying Interests (Habitats and Species)</b>	<b>Location / distance to European site and Potential Pathways</b>
Rockabill to Dalkey Island SAC (003000)	<p><b>Conservation Objectives</b> Version 1.0, 07 May 2013</p> <p>To maintain the favourable conservation condition of reefs and harbour porpoise, which is defined</p>	<p>C5.5km to the west of the appeal site</p> <p>Hydrological</p>

	by a list of attributes and targets. <b>Qualifying interests</b> Reefs Phocoena phocoena (Harbour Porpoise)	
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**16.13. Assessment of Likely Effects**

16.14. As the site is not within a designated site no direct impacts will arise.

16.15. In terms of indirect effects the construction stage of the project will involve excavation below ground level, the storage of stockpiled material, culverting the Carrickmines Stream, diverting the Ballyogan Stream, creation of a linear park which has the potential to release sediment, contaminated material/water, hydrocarbons and other polluting material to the drainage system that discharges into the sea creating the potential for indirect impacts on the Natura 2000 sites associated with same.

16.16. The proposal is designed to ensure that site clearance and preparation together with construction works will be undertaken in a manner that will allow potential impacts to be managed to prevent impacts on the water environment. The measures to be used entail standard best practice measures in terms of construction and would be integral components of the construction phase given the overall approach proposed and the distances involved. I would concur with the conclusions of the screening report submitted that no indirect impacts are envisaged.

16.17. Rainwater currently percolates to the soil or enters the streams directly. In accordance with the Greater Dublin Strategic Drainage Study this project will incorporate sustainable drainage systems (SuDS) that will maintain a runoff to a greenfield rate. SuDS measures to be employed as part of this project include green roofs, rainwater harvesting and swales. Storage attenuation is to be provided within two underground tanks. These will discharge to the Carrickmines Stream via a new outfall pipe. The implementation of the Greater Dublin Strategic Drainage Study policy will see broad compliance with environmental and planning requirements in an integrated manner. It is stated that there can be no negative impact to the surface

water quality leaving the site due to the attenuation measures which are planned. There are no other discharges from this operation.

16.18. During the operational stages of the development surface water attenuation will be provided on site. The site is fully serviced.

16.19. In terms of cumulative impacts I have regard to the location of the site on serviced and zoned lands. As set out in the Screening Report there are no projects which can act in combination with this development which can give rise to significant effects to Natura 2000 areas within the zone of influence.

#### 16.20. **Screening Statement and Conclusions**

16.21. It is reasonable to conclude, on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually and in combination with other plans or projects would not be likely to have a significant effect on any European Site and in particular Rockabill to Dalkey Island SAC (Site Code 003000) 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 required.

### 17.0 **Environmental Impact Assessment**

17.1. I note the concerns raised by the appellant (Dundrum Retail Limited Partnership (DRLP)) in relation to the Environmental Impact Assessment Report. It is submitted that the EIAR failed to adequately assess the cumulative effects of the proposed development on existing material assets; that it failed to consider alternative locations for the uses proposed and that EIARs and the Planning Authority's consideration of Climate Change was not adequate. It is further submitted that nowhere in the record of the planning authority's decision making on the development consent is it evident that the formal, separate, self-contained assessment of the effects of certain public and private projects on the environment required by the Directive has been undertaken.

17.2. As pointed out by the applicant the Board is required to undertake its own EIA of the proposed development. As part of this EIA, it will be obliged to assess the adequacy of the information furnished by the applicant in relation to the likely significant effects

- 17.3. This section of the report comprises an environmental impact assessment of the proposed development. A number of the matters to be considered have already been addressed in the Planning Assessment above. This section of the report should therefore be read, where necessary, in conjunction with relevant section of the Planning Assessment.
- 17.4. I refer to the EIAR submitted to DLRCC on the 26<sup>th</sup> March 2018 as updated by a further information submitted to DLRCC on the 12<sup>th</sup> October 2018 and clarification of further information submitted on the 18<sup>th</sup> February 2019 together with all other reports and detailed material available on the appeal file.
- 17.5. **Overview and Statutory Provisions**
- 17.6. The application was lodged with the DLRCC on the 26<sup>th</sup> March 2018. Having regard to the provisions of Circular Letter PL1/2017 the subject application falls within the scope of the amending 2014 EIA Directive (Directive 2014/52/EU) on the basis that the application was lodged after the last date for transposition in May 2017. It does not, however, fall within the scope of the European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018, as the application was lodged prior to these regulations coming into effect on 1st September 2018.
- 17.7. The EIAR (as amended) contains two volumes and includes a Non-Technical Summary (Volume 1). Chapters 1 and 2 set out an introduction and background to the project, description of the proposed development, planning and policy context and alternatives considered. The likely significant direct and indirect effects of the proposed development are considered in the remaining chapters which collectively address the headings, as set out in Article 3 of the EIA Directive 2014/52/EU. Chapter 13 sets out the interactions between the environmental factors. Chapter 14 gives a summary of the impacts and mitigation and monitoring measures
- 17.8. I have carried out an examination of the information presented by the applicant, including the EIAR (as amended), and the submissions made during the course of the appeal. A summary of the results of the submissions made by the planning authority, prescribed bodies, appellants and observers, has been set out at Section 6 of this report. The main issues raised specific to EIA can be summarised as follows:

- The effect of traffic emissions on human health
- The effect of noise, dust and traffic during construction on human health
- The effect of construction works on air arising from dust
- The effect of the proposed building on the landscape (townscape)

17.9. These issues are addressed below under the relevant headings, and as appropriate in the reasoned conclusion and recommendation including conditions.

17.10. I am satisfied that the EIAR has been prepared by competent experts to ensure its completeness and quality, and that the information contained in the EIAR and supplementary information provided by the developer, adequately identifies and describes the direct and indirect effects of the proposed development on the environment and complies with article 94 of the Planning and Development Regulations 2000, as amended.

#### **17.11. Alternatives considered**

17.12. Chapter 2 of the EIAR addresses the alternatives considered and provides an outline of the main alternatives examined throughout the design and consultation process.

17.13. Given the zoning objective of the site and Specific Local Objective 131 of the DLR Development Plan 2016 – 2022, to meet the existing and future retail and leisure needs of the growth area of Carrickmines, Stepside- Ballyogan Kiltiernan- Glenamuck, it was not considered necessary or appropriate to consider alternative sites for the proposed development. Therefore no alternative sites were subject to consideration. In view of the site specific nature of the project on appropriately zoned lands, I consider that the applicant's reasoning for not considering alternative sites to be reasonable.

17.14. Due consideration is given to alternative designs and layouts for the subject lands and were the subject of discussions with the Planning Authority. The significant environmental issues and potential effects which informed this consideration related to ecology, traffic management, landscape and visual impact, flood risk and potential impacts on the amenities of established properties and uses in the area. These considerations informed the consideration of alternative layouts and designs including heights of buildings and road access arrangements. Alternative configurations considered are detailed in the EIAR.



17.15. I am satisfied that the EIAR has provided a description of the reasonable alternatives studied by the applicant which are relevant to the proposed project.

#### **17.16. Likely Significant Direct and Indirect Effects**

17.17. The likely significant direct and indirect effects of the development are considered under the headings below which follow the order of the factors set out in Article 3 of the EIA Directive 2014/52/EU:

- Population and human health;
- Biodiversity, with particular attention to species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC;
- Land, soil, water, air and climate;
- Material assets, cultural heritage and the landscape; and
- The interaction between those factors

#### **17.18. Population and Human Health**

17.19. Chapter 2 of the EIAR addresses population and human health with reference made to other chapters of the document.

#### **17.20. *Population***

17.21. The proposed development will result in a generally positive alteration to the existing undeveloped green field site in terms of the provision of retail, residential and leisure uses and a significant linear park to serve the growing population of the area in accordance with the planning policy framework provided by the DLRCC County Development Plan 2016 – 2022. The proposed development will precipitate long term and positive impacts in respect of the health and future occupants. The proposed development will bring about an increase in employment in the area, which has experienced strong population growth during the 2011-2016 intercensal period.

#### **17.22. *Human Health***

17.23. Chapter 10 of the EIAR addresses noise and vibration. It sets out baseline noise data and details of monitoring carried out. The closest building to the site are identified as retail / office buildings which are modern heavy framed buildings. There are a number of existing residential noise sensitive receptors located in proximity to

the development site boundaries including detached houses on the Ballyogan Road northwest of the site. The noise climate at the location is dominated by passing road traffic, movements on the Ballyogan Road and by M50 traffic noise. The LUAS line also runs directly opposite this receptor and also contributes to the noise climate at this location.

17.24. During the construction phase there will be extensive site works, involving construction machinery, construction activities on site and construction traffic, which will all generate noise. The highest noise levels will be generated during the site preparation works, foundation construction activities and on site general construction activities. It is predicted that the construction phases shall result in an increase in noise levels in the area as well as introducing tonal and impulsive noise as a result of construction activities such as pneumatic breaking, cutting, excavating, vehicle movements and general manual construction activities. The construction noise levels will be of relatively short terms duration and will only occur during daytime hours which will serve to minimise the noise impacts a local existing receptors. It is not expected that the predicted short term increase in HGV movements associated with the construction phase of the development will have an adverse impact on the existing noise climate of the wider area or on local receptors. There will be the potential for vibration impacts to occur as a result of site enabling and ground preparation works, basement excavation and foundation construction.

17.25. A noise monitoring programme together with a vibration monitoring programme will be implemented during the course of the construction phase. All monitoring data will be compiled into a monthly technical monitoring report which will include a full assessment of the noise and vibration impacts arising from the site construction activities.

17.26. Impact arising during the construction phase are, by their nature, temporary. Mitigation measures include a construction environmental management plan. Following mitigation no significant residual impacts are envisaged.

17.27. In terms of the operational phase of the development it is not predicted to have an adverse impact on the receiving environment or on the existing residential or commercial development adjacent to the site or at the proposed residential development within the site save for noise impacts that would arise from traffic

accessing the site. In the context of the prevailing traffic environment the impacts are not considered material. While no mitigation measures are proposed for the operational stage noise and vibration surveys shall be conducted by an appropriately qualified acoustic consultant at specific baseline locations (including at the detached houses on Ballyogan Road northwest of the appeal site) to verify the operational phase does not have an adverse impact on the receiving environment. Continuous noise and vibration monitoring systems shall be installed for a 4 week period when all aspects of the development are operational. The result shall be submitted to DLRCC.

17.28. I consider that the assessment of impacts on population and human health is adequate and reasonable. Whilst there may be impacts during construction, these will be temporary and short term.

17.29. I have considered all of the written submissions made in relation to population and human health and the material set out in the EIAR (as amended). I am satisfied that impacts on population and human health are positive or would be avoided, managed and mitigated by measures that form part of the proposed scheme, the proposed mitigation measures and with suitable conditions. I am, therefore, satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative impacts on population and human health.

### 17.30. **Biodiversity**

17.31. Chapter 5 of the EIAR refers to biodiversity

17.32. The appeal site is not within or adjacent to any area that has been designated for nature conservation at a national or international level. There are no examples of habitats listed on annex 1 of the Habitats Directive or records of rare or protected plants. There are no alien species growing on the site.

17.33. Potential impacts likely to occur during the construction phase in the absence of mitigation are the removal of habitats, direct mortality of species during site clearance, disturbance to protected species during lands clearance including badgers and fish and other aquatic species, pollution of water courses through the ingress of silt, oils and other toxic substances and the spread of invasive species such as Japanese Knotweed which is present on the site.

- 17.34. Potential impacts likely to occur during the operation phase in the absence of mitigation include impacts to species through the disruption of ecological corridors, pollution of water from foul wastewater arising from the development, pollution of water from surface water, disturbance of species from increased human activity (vehicle traffic and the recreation for a public park to the north of the site), lighting and the creation of a landscaped area to include additional planting.
- 17.35. Mitigation measures include preparation of a site Construction Method Plan, retention of high value hedgerows, provision of artificial Badger setts, new stream route designed to be as natural as possible with earthen banks and a natural stone / gravel bed, silt fencing and berms, construction of new stream channel in the dry and outside the closed season for instream works, wastewater to be sent to the municipal treatment plant at Shanganagh, SuDs measures to be employed, the restriction of lighting to the building perimeter walkways, roadways, cycle paths and car parking, new bridge crossing within the park are single span and will not affect the flow of water or the movements of wildlife through this area. The amenity park will have at least an equal biodiversity value to the current habitats.
- 17.36. As stated above invasive species such as Japanese Knotweed is present on the site in two locations. I refer to the Construction Phase Japanese Knotweed Management Plan (January 2019) submitted with the planning file. It was treated with herbicide in the growing season of 2018. A further site inspection and herbicide was undertaken during the growing season in the second half of 2018. Following a review of the original plan to deep bury Japanese Knotweed on the site, it has now been recommended that the bio secure removal and off-site disposal of Japanese Knotweed infested soils is the most suitable and appropriate remediation solution. Further this management plan is compatible with the proposed mitigation measures for the conservation of Badgers on site.
- 17.37. Mitigation for the loss of bat foraging routes at the operation phase is included in the landscaping design of the linear park through the planting of new trees and shrubs. It is recommended that six bat boxes be installed within the linear park to provide roosting opportunities for bats.
- 17.38. There are two Badger setts within the site. The sett is not believed to be a main / breeding sett. Given that the sett is not used for breeding and therefore does not

represent a family unit, it is considered to be of a high local value. However all setts regardless of their use are protected under the Wildlife Act. The proposed development will require the excavation of the Badger sett under license from the NPWS and an artificial sett is proposed to be installed within the linear park. This will be in place prior to the disturbance of existing setts. It is stated that there is a risk that mitigation for Badgers will not be successful and that they will not remain on this site post construction.

17.39. With the implementation of the recommended mitigation measures the ecological impacts by this proposed development will be largely neutral. Following mitigation no significant residual impacts are envisaged.

17.40. I have considered the material set out in the EIAR in relation to biodiversity. I am satisfied that impacts identified would be avoided, managed and/or mitigated by measures that form part of the proposed scheme, by the proposed mitigation measures and with suitable conditions. I am, therefore, satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative impacts on biodiversity.

#### 17.41. **Land, Soil, Water**

17.42. Chapter 13 EIAR addresses land and soils. Chapter 8 EIAR addresses water.

#### 17.43. **Land**

17.44. The site is within an existing retail centre in a developed suburban area. Given the zoning objective of the site and Specific Local Objective 131 of the DLR Development Plan 2016 – 2022, to meet the existing and future retail and leisure needs of the growth area of Carrickmines, Stepside- Ballyogan Kiltiernan- Glenamuck there are no impacts in terms of land take.

#### 17.45. **Soil**

17.46. The materials encountered in the borehole investigations were generally similar and consisted of hard dark grey sandy gravelly clay with occasional cobbles which overlies a hard brown gravelly clay with occasional cobbles. No unexpected hydrological features, including contaminated material have been found on site. Gas monitoring was also carried out on the western boundary of the Park site. The result

showed elevated carbon dioxide levels in the area. Water level readings indicated a standing water level of approximately 1 – 3m. The proposed development is within the catchment of the Ballyogan Stream, a tributary of the Shanganagh / Loughlinstown River. A more comprehensive description of the ground conditions together with various test results and geophysical survey is provided in the site Investigation Ltd report included in Appendix 7.1.

17.47. The proposed development with respect to soils and geology, includes the following characteristics:

- Forming of embankments / piling as appropriate of the site perimeter to allow excavation of the basement areas.
- Excavation of the basement areas
- Piling / excavation of new building foundations
- Filing for the embankment for the Northfield Road link to Ballyogan road using suitably excavated material
- Strengthening and / or replacement of the soil beneath the proposed Ballyogan Stream culvert under the Northfield Road link to Ballyogan Road
- Excavations to facilitate Ballyogan Road and Glenamuck Link road widening works
- Regrading off site of excavated material
- Disposal of any contaminated excavated material

17.48. Extensive earth moving operations will be undertaken over a significant area across a multi-year construction programme. Approximately 330,000m<sup>3</sup> of topsoil and excavated material will arise during the construction phase. There is a potential for the processes to result in accumulations of top soil and sediments in the Ballyogan Stream, on the adjacent roadways or in the adjacent existing drains. The use of chemicals, fuels and oils on site gives rise to the potential for multiple spills of toxic materials to ground and to water. Similar considerations apply to ongoing use of concrete, grout and other cement material during construction. Further increase in traffic levels due to construction vehicles and deliveries may lead to on-going traffic delays and more rapid wearing of road surfaces. No other construction stage impacts are likely to potentially persist to the operational phase.

17.49. A number of mitigation measures will be adopted at construction stage including the provision of wheel wash facilities, suitable bunded areas will be installed for oil and petrol storage tanks and during the excavation works for basement areas water pumped from the excavated area shall be re-circulated by pumping into the ground adjacent to the excavation area to mitigate against hydrogeological effects from changes to the water table level during construction works. Other measures will include the maintenance of existing vegetation cover whenever possible and excavation shall be phased to minimise the extent of exposed soil.

17.50. Topsoil will be reinstated in those areas of open space impacted by the proposed works and suitable planting provided to stabilise the topsoil. During excavation works for the realignment of the Ballyogan Stream the new water course shall be excavated while the existing course is kept live and prior to tying in shall have permanent and temporary erosion protection measures put in place. The realigned course of the Ballyogan Stream will be stabilised and re-established as a riparian corridor by the use of soft engineering such as seeded and geotextile mats where possible; harder measures such as solid structures shall be used only where necessary such as the structure of the new crossing of the stream. Works to form the new linear park alongside the Ballyogan Stream shall maintain existing vegetation cover wherever possible and excavation shall be phased to minimise the extent of exposed soil.

17.51. All drainage assets, paving, landscaped areas and the channel of the Ballyogan Stream shall be part of, and subject to an ongoing inspection and maintenance schedule.

17.52. It is not envisaged that there will be any significant impacts on soil following the completion of the development. No remedial or reductive measures are, therefore, required during the operational stage of the proposed development.

17.53. **Water**

17.54. The sewage from the adjoining Park site at present drains to the Carrickmines Valley sewer north of the appeal site. There is adequate spare capacity in the system to cater for the projected foul flows. The existing sources of potable water supply to the Park are the 150mm diameter water mains along the road within the site. These mains are connected to the public water main in the Glenamuck Link Road.

- 17.55. The development lands are located within the catchment of the Ballyogan Stream and a section of this stream is located within the northern part of the appeal site. A section of the Ballyogan Stream will be re-aligned as part of the development works to facilitate the construction of the link road to Ballyogan Road. Surface water from the development lands currently drains to the Ballyogan Stream which in turn outfalls to the Carrickmines River which outfalls to the Irish Sea at Ballybrack via Loughlinstown River. It is proposed to provide a separate surface water system for this section of the site, to collect and dispose of surface water runoff. All surface water within the proposed development will outfall ultimately to the Ballyogan Stream. It is proposed to provide attenuation for surface water runoff from hardstanding and impermeable areas on site. The site has been divided into a number of catchment areas. The attenuation will be provided within a variety of attenuation systems distributed around the site. The surface water from the hardstanding area of the development will be restricted to the requirements of the Greater Dublin Strategic Drainage Study.
- 17.56. Green roofs and permeable paving have been incorporated into the proposed development as part of the sustainable urban drainage design. These measure will assist in improving the water quality of the surface water runoff from these areas and will also assist in attenuating flows during periods of exceptional heavy rainfall.
- 17.57. During construction potential impacts relate to potential for surface water to be discharged to the existing public foul sewer system, risk of pollution of groundwater / watercourses by accidental spillage of foul effluent when making connections to live sewers and by accidental spillage of oils / diesel from temporary storage areas or where maintaining construction equipment can occur. Basement works together with the realignment of the Ballyogan Stream would give rise to the potential for accumulation of top soil and sediments to be washed to the Ballyogan Stream, the existing drains and the proposed drains.
- 17.58. Other than spill of chemical no construction stage impacts are likely to potentially persist to the operational phase.
- 17.59. A number of mitigation measures relating to surface water drainage will be implemented including:



- The filtering of surface water that is likely to be contaminated by soil particles in order to reduce the silting effects of these particles in the existing sewer system
- Supervision by DLRCC of the connection to existing surface water sewers and culverts
- Construction of suitable silt traps prior to the surface water out falling to the existing watercourses
- The stream diversion will be constructed to within 2m of the existing stream. Once complete the downstream end will be broken out and carefully tied into the existing stream. The upstream section will then be carefully removed and the water diverted into the new realigned section. No works in the stream will be undertaken between the months of October – April inclusive in order to protect spawning beds and migratory routes.
- During excavation works for the realignment of the Ballyogan Stream the new water course shall be excavated while the existing course is kept live and prior to tying in shall have permanent and temporary erosion protection matters put in place. A low flow channel shall be provided within the realigned stream to ensure flow is maintained in dry weather conditions.
- Minor negative impacts during the construction phase, such as disruption in water supply when connections to the public main are being carried out will be short term only.
- Water quality monitoring will be carried out on the Ballyogan Stream during the construction stage of the project. Water samples will be collected upstream and downstream of the proposed development works. These samples will be submitted to DLRCC. Any deterioration in water quality will be immediately addressed.

17.60. The site lies within Flood Zone A/B (predominantly Flood Zone A). A separate Flood Risk Assessment (FRA) was carried out by JBA Consulting, which determined the impact of the proposed works on the Ballyogan Stream flood Plain during the critical 1 in 10, 100 and 1000 year storm events. The issue of flooding has been discussed in further detail in Section 13 of this report.

17.61. It is not envisaged that there will be any significant impacts on water following the completion of the development. No remedial or reductive measures are, therefore, required during the operational stage of the proposed development.

17.62. I have considered the EIAR in relation to land, soil and water. I am satisfied that impacts identified on land, soil and water would be avoided, managed and/or mitigated by measures that form part of the proposed scheme, by the proposed mitigation measures and with suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative impacts on land soil or water.

### 17.63. **Air and Climate**

17.64. Chapter 9 sets out the expected impacts on air quality and climate. There will be short to medium term slight negative cumulative impacts associated with the construction phase of the Q3 Carrickmines development on ambient air quality and climate.

### 17.65. **Air**

17.66. The impact on local air quality during set up and clearance will be short term in nature and will result in a minor impact on local air quality and existing sensitive receptors. Co<sub>2</sub> will be released into the atmosphere as a result of the movement of construction vehicles and use of plant. However emissions associated with such activities will be minor and short term.

17.67. The operational phase of the proposed development will result in a slight impact on local air quality primarily as a result of the requirements of new buildings to be heated and with the increased traffic movements associated with the commercial and residential aspects of the development. In order to ensure that any adverse impacts to air quality are minimised during the construction phase a number of mitigation measures shall be implemented including the avoidance of unnecessary vehicle movements and manoeuvring, speed limits to minimise dust, spraying of surfaces and sweeping of hard surface roads. A programme of air quality monitoring shall be implemented at the site boundaries for the duration for the construction phase.

17.68. These measures would be considered to be best practice in terms of the construction phase. Following mitigation no significant residual impacts are envisaged.

17.69. The operational phase of the development site will not generate air emissions that would have an adverse impact on local ambient air quality or local human health and as such there are no mitigation measures specified for the operational phase.

17.70. I accept the conclusions reached in the EIAR that the operation of the proposed development will result in negligible impacts on air quality and climate. No mitigation measures are proposed.

17.71. ***Climate***

17.72. The overall development includes the construction of buildings, ground surfaces and roadways which will have the effect of marginally raising local air temperatures, especially in summer. It is predicted that the proposed development will not have an adverse impact on micro climate at the nearest existing or future residential properties or on the local receiving environment in the vicinity of the site boundaries.

17.73. Approximately 1.5ha of a public linear park and greenway are proposed as part of the development. The extensive public linear park and greenway area will include native trees, grasses and shrubs which will contribute albeit in a minor way to the absorption of carbon dioxide from the atmosphere and the release of oxygen to the atmosphere.

17.74. Vehicle exhaust emissions generated from the site related vehicles will have a negligible impact on the macro climate given modern technological development in cleaner and more efficient vehicle engines. To further reduce the climatic impact of the operational phase of the development, electric vehicle sharing points shall be installed in dedicated parking spaces to facilitate residents who own electric vehicles.

17.75. The residential aspect of the scheme has been designed to provide thermally efficient buildings which will reduce the consumption of fossil fuels within each individual building. Mechanical Ventilation and Heat Recovery (MV&HR) systems shall be incorporated into the design of apartments together with thermally and acoustically rated window sets. These design features will ensure the units are thermally efficient thus reducing the use of fossil fuels leading to a reduction in the impact on climate.

The thermal efficiency of the buildings will ensure that the development will be sustainable and will be protected against the impacts of future climate change which can include high winds, storm events and prolonged colder periods during the winter.

17.76. I have considered the EIAR and all of the written submissions made in relation to air and climate. I am satisfied that impacts identified on air and climate would be avoided, managed and/or mitigated by measures that form part of the proposed scheme, by the proposed mitigation measures and with suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative impacts on air quality and climate.

#### **17.77. Material Assets**

17.78. Chapter 11 sets out the expected impacts on material assets. Chapter 12 sets out the expected impacts on Traffic & Transportation.

17.79. The proposed development will bring about changes to the transport network for all modes. The development will result in improvements to the pedestrian and cyclist network in the area. The development will also improve accessibility for the local community by providing a shuttle bus service and shorter walking distance to the LUAS. These will improve social inclusion by allowing people without access to a car to access these important local facilities. The scheme will result in changes to traffic volume in the local network, because of the improved permeability and the reduction in travel journeys and movements. The proposed development will generate some additional trips on the M50, but this will be limited to the new trips generated by the retail warehouses and some trips generated by the office units and to a much lesser extent the residential units.

17.80. The mitigation measures identified as necessary to support the proposed development and which are included as part of the planning submission include reduced parking provision, parking controls, travel plan, free local bus service, quality pedestrian environments, cycle parking, showers and lockers. A major contribution to mitigating the impact of the development on traffic and transportation infrastructure will be a car demand management implemented through the operation of a travel plan. A detailed travel plan is included with the application.

17.81. A Construction and Operational Waste Management Plan has been prepared and is included with the EIAR. This includes information on the predicted waste arising from the proposed development and appropriate mechanisms for dealing with waste generation at construction and operational phases.

17.82. The proposed development will have a positive impact on the existing urban environment by creating a high quality development providing retail, residential, employment and leisure space to cater for the needs of a growing population on appropriately zoned lands, adjacent to Ballyogan LUAS stop and also including a significant linear park. Traffic movements associated with the proposed development are likely to have a long-term and neutral impact on the operation of the local road network. There is unlikely to be any significant adverse impact on material assets as a result of the proposed development during the construction or operational phase of the development.

17.83. The buildings are to be designed to be environmentally and economically efficient. I would also submit that as the public transport options improve the overall traffic conditions would improve.

17.84. I have considered the EIAR and all of the written submissions made in relation to material assets. I am satisfied that impacts identified on material assets would be avoided, managed and/or mitigated by measures that form part of the proposed scheme, by the proposed mitigation measures and with suitable conditions. I am, therefore, satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative impacts on material assets.

**17.85. Cultural Heritage**

17.86. Chapter 4 of the EIAR addresses cultural heritage and archaeology. The development has the potential to impact on archaeology in the area.

17.87. There are no recorded archaeological sites or monuments within the proposed development area. The southern two thirds of the site have been stripped of topsoil under archaeological supervision as part of previous permitted development. Nothing of archaeological interest was identified during the topsoil stripping within the appeal site. The northern third of the site comprises the Ballyogan Stream River valley. Archaeological test excavation revealed nothing of archaeological significance.

There is however potential that isolated archaeological soil features might yet be revealed during earthmoving works. It is recommended that archaeological monitoring be carried out during all earthmoving works.

17.88. There are no protected structures (RPS sites) within the proposed development area or in the immediate vicinity of it. The closest RPS site are Priorsland House (RPS Ref 1746) and the Station House (formerly associated with the Carrickmines Railway Station) (RPS Ref 1743) located on the Glenamuck Road on the eastern side of the M50. These properties will not be impacted by the proposed development. No buildings or structures of heritage value have been identified as being present on or in the immediate environs of the proposed development site. No structures of architectural or cultural heritage merit will be impacted by the proposed development and no additional features of merit were identified during the site inspection or in the documentary, cartographic and aerial photographic sources.

17.89. I have considered the EIAR and all of the written submissions made in relation to cultural heritage. I am satisfied that impacts identified on cultural heritage would be avoided, managed and/or mitigated by measures that form part of the proposed scheme, by the proposed mitigation measures and with suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative impacts on cultural heritage.

#### 17.90. **Landscape**

17.91. I refer the Board to my assessment under the heading of Design & Layout in the planning assessment above. Chapter 6 of the EIAR relates to landscape and visual impact. The potential impact of the development on the landscape was assessed with reference to context, character, significance and vulnerability. Section 6.5 and 6.6 describe the potential effects that the proposed development could have on local landscape character and visual amenity together with potential cumulative impacts while Section 6.8 outlines the key mitigation measures that have been incorporated to mitigate those potential effects. Section 6.4 summarises the outcome of the design process having taken account of those factors, detailed further in Chapter 2 of the EIAR.

17.92. There will be some construction phase impacts however these will be temporary and are typical of large construction projects. The construction phase is expected to last 24-36 months. It is stated that “bespoke architectural design has been the approach to the proposed development, avoiding a “form follows function” approach and “standard” outcomes. The result will have a positive impact.

17.93. There are no protected views that directly affect the proposal. The proposed development will alter the existing landscape character. No specific mitigation measures are proposed beyond the quality of architectural and urban design and finish materials and how the design was influenced by the EIA process.

17.94. As I have stated above the proposal will have a significant impact on the landscape of the area and will be a dominant feature. The impacts will generally reduce in significance with distance from the site. Whether it should be regarded as negative requires the exercise of judgement. The existing retail park is dominated by low rise buildings surrounding surface car parking. In view of the policy considerations and the identification of the site for redevelopment to a certain scale and strong presence to the public realm I consider that the impacts are positive and acceptable.

17.95. I have considered the EIAR and all of the written submissions made in relation to landscape. I consider that the proposal development would have a positive impact on the landscape. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative impacts on landscape.

#### **17.96. Interaction of the Above and Cumulative Impacts**

17.97. I have considered the interrelationships between factors and whether these may, as a whole, affect the environment, even though the effects may be acceptable when considered on an individual basis. Chapter 13 address impact interactions between environmental factors. Further a specific section on interactions is included in each of the environmental topic chapters of the EIAR. The primary interactions can be summarised as follows:

- Landscape design, engineering services with biodiversity and archaeology and cultural heritage
- Biodiversity with water and soils and landscape and visual impact
- Noise and vibration and Traffic and Transportation

- Traffic & Transportation and Air Quality & Climate and
- Water and biodiversity

17.98. I am satisfied that effects as a result of interactions, indirect and cumulative effects can be avoided, managed and / or mitigated by the measures which form part of the proposed development, the proposed mitigation measures detailed in the EIAR, and with suitable conditions. There is, therefore, nothing to prevent the granting of the development on the grounds of significant effects as a result of interactions between the environmental factors or as a result of cumulative impacts.

### 17.99. Reasoned Conclusion

17.100. Further information and clarification of further information was sought on the EIAR in relation to the list of experts, heritage and archaeology, visual impact, climate change, impact on material assets and mitigation and monitoring measures. It is considered that the EIAR as amended identifies and describes adequately the direct and indirect significant effects on the environment of the proposed development.

17.101. Having regard to the examination of environmental information contained above, and in particular to the EIAR and supplementary information provided by the developer, and the submissions from the planning authority, prescribed bodies, appellants and observers, in the course of the application and appeal, it is considered that the main significant direct and indirect effects of the proposed development on the environment are and will be mitigated as follows:

- Significant direct effect on the landscape. The proposal would make a positive contribution to the urban character of the area, given the development plan policy considerations and the identification of the site for development to a certain scale with a strong presence to the public realm.
- Effects on population and human health arising from noise, vibration, dust, traffic, excavation and demolition impacts during construction which will be satisfactorily mitigated by a Construction Management Plan including traffic management measures.



- Significant direct positive effects with regard to population and material assets due to the increase in housing stock and provision of local neighbourhood services that it would make available in the area.
- Effects on traffic arise due to trips to the site. The proposed uses will in the main serve local need and the retail warehousing element is already a use in the area. Provision of neighbourhood centre facilities will reduce trips from the area to other locations.

17.102. I am, therefore, satisfied that the proposed development would not have any unacceptable direct or indirect effects on the environment.

## 18.0 Recommendation

18.1. Having regard to the documentation on file, the grounds of appeal, the responses thereto, a site inspection and my assessment above I recommend that permission for the above described development be **granted** for the following reasons and considerations subject to conditions.

## 19.0 Reasons and Considerations

19.1. Having regard to:

- a) The zoning objectives for the site in the Dun Laoghaire Rathdown Development Plan 2016 – 2022
- b) The Six Year Road Objective for a link road from The Park, Carrickmines to Ballyogan Road in the Dun Laoghaire Rathdown Development Plan 2016 – 2022
- c) The Site Specific Objective 131 for the provision of a Neighbourhood Centre in the Dun Laoghaire Rathdown Development Plan 2016 – 2022
- d) The provisions of the Ballyogan and Environs Local Area Plan (July 019)
- e) The nature and extent of existing and permitted development on the site and in the vicinity,
- f) The proposed improvements to the road network and public transport infrastructure in the area,

- g) The nature, scale and design of the proposed development including the public realm provision and enhancements

it is considered that subject to compliance with the conditions set out below, the proposed development would constitute an appropriate form of development, would not be contrary to the retail policy as set out in the Dun Laoghaire Rathdown Development Plan 2016 – 2022, would not seriously injure the amenities of the area or of property in the vicinity, would be acceptable in terms of pedestrian and traffic safety and convenience and would be in accordance with the proper planning and sustainable development of the area.

## 20.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application on the 28<sup>th</sup> March 2018 and as amended by the further plans and particulars submitted on the 12<sup>th</sup> October 2018 and 18<sup>th</sup> February 2019 and by the further plans and particulars received by An Bord Pleanála 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.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>The mitigation and monitoring measures set out in the Environmental Impact Assessment Report submitted with this application shall be carried out in full, except where otherwise required by conditions attached to this permission.</p> <p><b>Reason:</b> To protect the environment.</p>
3.	<p>The development shall be carried out in accordance with the phasing plan as outlined in the documentation submitted with the further information and the Construction Environmental Management Plan (CEMP) submitted by way of clarification of further information, except as required to comply with</p>

	<p>the following,</p> <ul style="list-style-type: none"> <li>a) The Ballyogan Link Road (Northfield Road Extension) shall be constructed and operational prior to the occupation of any part of the overall 'Quadrant 3, The Park' development</li> <li>b) The proposed apartments and Block D shall be completed before the operation of neighbourhood centre commences</li> <li>c) The park including greenway (as shown on Figure 12:13 of chapter 12 of the EIAR) shall be available for use by the general public before the operation of neighbourhood centre commences. Areas restricted due to construction of other elements of the development or requirements for planting to take hold shall be available for use no later than 6 months after the operation of the neighbourhood centre commences. Details shall be agreed with the Planning Authority in writing prior to commencement of work on site.</li> <li>d) The neighbourhood centre and leisure use shall commence operation within 6 months of the occupation of the retail warehousing.</li> </ul> <p><b>Reason:</b> In the interest of clarity and to provide for a structure schedule of construction works on the site and to ensure the timely provision of services, for the benefit of future occupants of the proposed development.</p>
4.	<p>A Mobility Management Strategy Plan shall be submitted to, and agreed in writing with, the planning authority and shall include a car park management strategy. The following measures shall be undertaken:</p> <ul style="list-style-type: none"> <li>a) The Strategy shall set a target to achieve an improved modal travel split and shall propose specific measures, including any necessary physical interventions on the site or changes to car park management/policies, to achieve the revised modal split target.</li> <li>b) A Mobility Manager shall be appointed to oversee and co-ordinate the implementation of the plan.</li> <li>c) A follow-up survey of the modal travel split for all users of the site</li> </ul>

	<p>shall be carried out and submitted to the planning authority within 12 months of the completion of the overall development hereby permitted.</p> <p><b>Reason:</b> In the interest of encouraging the use of sustainable modes of transport.</p>
5.	<p>A servicing plan for the development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p><b>Reason:</b> To provide for the appropriate servicing of the building.</p>
6.	<p>Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p><b>Reason:</b> In the interest of public health</p>
7.	<p>Details of the materials, colours and textures of all the external finishes to the proposed buildings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p><b>Reason:</b> In the interest of the visual amenities of the area.</p>
8.	<p>No external security shutters shall be erected on any of the commercial premises fronting onto public roads and public spaces, unless authorised by a further grant of planning permission. Details of all internal shutters shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p><b>Reason:</b> In the interest of visual amenity.</p>
9.	<p>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</p>

	<p>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.</p> <p><b>Reason:</b> 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.</p>
10.	<p>a) Members of the public shall have full right and liberty for the free passage and use of the greenway through the proposed 'Quadrant 3, The Park' development/Linear Park (i.e. the Applicants Blue Line). The management plan shall detail the maintenance and management of the open space to maintain the access route.</p> <p>b) A wayfinding signage scheme for the entire development, including the greenway, parkland and all internal streets shall be submitted to the planning authority for written agreement before the occupation of the development.</p> <p><b>Reason:</b> To ensure pedestrian/cyclist permeability between Ballyogan to the west and Cherrywood/future development to the east and to ensure legibility within the scheme for all users.</p>
11.	<p>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.</p> <p><b>Reason:</b> In the interests of amenity and public safety</p>
12.	<p>a) The net permitted retail space shall not exceed 6,000 sqm net.</p> <p>b) The overall number of seats in the proposed cinema shall not exceed 900.</p> <p>c) No retail units shall be extended, sub-divided or merged internally without the prior written agreement of the planning authority.</p>

	<p>d) No additional mezzanine floors shall be provided in the retail warehousing units</p> <p>e) The use of the retail warehousing units shall be limited to bulky goods as defined in Annex 1 of the Retail Planning Guidelines. No more than 20% of the net retail space shall be used for the sale of any ancillary products.</p> <p>f) The restaurants shall not be used as a fast food/take away outlets</p> <p>g) No advertising sign or structure shall be erected except those which are exempted development, without the prior written agreement of the Planning Authority.</p> <p>h) Details of the shop front and signage shall be submitted to and agreed in writing with the Planning Authority prior to occupation.</p> <p><b>Reason:</b> In the interest of clarity and to provide for the orderly regulation of retail development in accordance with the stated retail policies set out in the current development plan for the area.</p>
13.	<p>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.</p> <p><b>Reason:</b> To protect the visual amenities of the area.</p>
14.	<p>Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July, 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste</p>

	<p>Management Plan for the Region in which the site is situated.</p> <p><b>Reason:</b> In the interest of sustainable waste management.</p>
15.	<p>The construction of the development shall be managed in accordance with a Site Traffic and Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:</p> <ul style="list-style-type: none"> <li>a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse.</li> <li>b) Location of areas for construction site offices and staff facilities.</li> <li>c) Details of site security fencing and hoardings.</li> <li>d) Details of on-site car parking facilities for site workers during the course of construction.</li> <li>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.</li> <li>f) Measures to obviate queuing of construction traffic on the adjoining road network.</li> <li>g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network.</li> <li>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.</li> <li>i) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels.</li> <li>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.</li> <li>k) Off-site disposal of construction/demolition waste and details of how</li> </ul>

	<p>it is proposed to manage excavated soil.</p> <p>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.</p> <p>A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.</p> <p><b>Reason:</b> In the interests of amenities, public health and safety</p>
16.	<p>With regards to Transportation and Movement:</p> <p>a) A Parking Control Scheme (i.e. Paid Parking) for the commercial element of the proposed development shall be submitted and agreed in writing with the Planning Authority prior to commencement of work on site</p> <p>b) The number of car parking spaces shall be reduced by 200. Revised drawing showing this reduction shall be submitted to the planning authority before the commencement of development for written agreement.</p> <p>c) The existing Left In/Left Out arrangement at main entrance to the 'Quadrant 3, The Park' development shall be maintained.</p> <p>d) The Applicant shall arrange at their own expense and to the satisfaction of the Planning Authority for the necessary adjustments to all proposed road layout, markings, toucan traffic signals, central medians and associated works on adjoining roads to accommodate the overall 'Quadrant 3, The Park' development (loops, reprogramming of signals, etc.). All cabling and electrical work shall be carried out by Dun Laoghaire-Rathdown County Council.</p> <p>e) Any proposed works on the public road shall be agreed with the Planning Authority (Traffic &amp; Road Safety Section) prior to commencement of the proposed development. All works to be carried out on the public road/footpath/cycletrack shall be at the Applicant's expense and shall meet the Dun Laoghaire-Rathdown County Council's 'Taking-in-Charge' requirements.</p>



- f) Detailed drawings and specifications for Ballyogan Link Road (Northfield Road Extension) to meet Dún Laoghaire-Rathdown County Council's 'Taking In Charge Policy Document (April 2016)' shall be submitted and agreed in writing with the Planning Authority prior to commencement of work on site
- g) The Applicant shall ensure the allocation of a minimum of 1 standard car parking space for each residential apartment units. The car parking spaces for the residential apartment units shall be sold with the units and shall not be sold separately or let.
- h) Of the proposed 54 no. street level car parking spaces 5 no will accommodate Electricity Operated Vehicles. The remaining car parking spaces shall be constructed so as to be capable of accommodating future electric charging points as required
- i) The appointed Travel Plan Coordinator shall provide an annual report to the Planning Authority for a period of 3 years.
- j) The Applicant shall implement and operate, all at their own expense, the proposed free Local Bus Route The route and times shall be finalised and agreed in writing with the Planning Authority prior to commencement of work on site. Any changes to the route and times shall also be agreed in writing with the DLRCC prior to implementation.
- k) A Stage 2 detailed design Quality Audit shall be carried out prior to commencement of construction. Post construction / prior to occupation a Stage 3 Road Safety Audit and a post completion Quality Audit shall be carried out at the Applicant's expense in accordance with the Design Manual for Urban Roads & Streets (DMURS) and TII (Transport Infrastructure Ireland) standards.
- l) All measures recommended by the Auditor shall be undertaken unless the Planning Authority approves a departure in writing. A feedback report shall also be submitted providing a response to each of the items

**Reason:** In the interest of the promotion of sustainable modes of

	<p>transport, to control car parking, pedestrian and traffic safety and in the interest of the proper planning and sustainable development of the area.</p>
17.	<p>The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:</p> <ul style="list-style-type: none"> <li>(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, and</li> <li>(b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site (including archaeological testing) and monitor all site development works.</li> </ul> <p>The assessment shall address the following issues:</p> <ul style="list-style-type: none"> <li>i. the nature and location of archaeological material on the site, and</li> <li>ii. the impact of the proposed development on such archaeological material.</li> </ul> <p>A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.</p> <p>In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.</p> <p><b>Reason:</b> In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.</p>
18.	<p>Site development and building works shall be carried out between the</p>

	<p>hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays or public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p><b>Reason:</b> In order to safeguard the residential amenities of property in the vicinity.</p>
19.	<p>Prior to commencement of development, the developer shall submit to, and obtain the written agreement of the planning authority, a plan containing details for the management and safe disposal of all 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.</p> <p><b>Reason:</b> To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.</p>
20.	<p>The management and maintenance of the proposed development, following completion, shall be the responsibility of a legally constituted management company, which shall be established by the developer. A management scheme, providing adequate measures for the future maintenance of the development; including the external fabric of the buildings, internal common areas, landscaping, roads, paths, parking areas, lighting, waste storage facilities and sanitary services, shall be submitted to, and agreed in writing with, the planning authority, before the proposed development is made available for occupation.</p> <p><b>Reason:</b> To provide for the future maintenance of this private development in the interest of visual amenity.</p>
21.	<p>Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or such other security as may be acceptable to the planning authority, to</p>

	<p>secure the satisfactory reinstatement of the site on cessation of the project coupled with an agreement empowering the planning authority to apply such security or part thereof to such reinstatement. 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.</p> <p><b>Reason:</b> To ensure satisfactory reinstatement of the site.</p>
22.	<p>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. 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.</p> <p>The expenditure incurred by the developer in the construction of the Ballyogan Link Road forming part of the development, which is a 6 year objective of the Dun Laoghaire Rathdown County Development Plan shall be offset against the contribution amount.</p> <p><b>Reason:</b> 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.</p>
23.	<p>The developer shall pay to the planning authority a financial contribution in respect of the extension of Luas Line B1 – Sandyford to Cherrywood in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 of the Planning and Development Act 2000, as amended. The contribution</p>

	<p>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.</p> <p><b>Reason:</b> 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.</p>
24.	<p>The developer shall pay the sum of €300,000 (three hundred thousand euro) (updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office), to the planning authority as a special contribution under section 48 (2)(c) of the Planning and Development Act 2000, in respect of upgrade of the Glenamuck Road/The Park junction. This contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate. The application of 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.</p> <p><b>Reason:</b> It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.</p>

**Mary Crowley**

**Senior Planning Inspector**

**2<sup>nd</sup> September 2019**