



An
Bord
Pleanála

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

Inspector's Report

ABP-305943-19

Strategic Housing Development

Demolition of existing structures and construction of 331 no. build-to-rent apartments, commercial, childcare facility and associated site works.

Location

Newtown, Malahide Road, Dublin 17

Planning Authority

Dublin City Council

Applicant

Claregrove Developments Ltd

Prescribed Bodies

Transport Infrastructure Ireland
Commission for Energy Regulation
National Transport Authority
Irish Water
Irish Aviation Authority

Dublin Airport Authority
Dublin County Childcare Committee

Observer(s) 7 submissions received- see Appendix
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Date of Site Inspection(s) 28th February 2020

Inspector Lorraine Dockery

1.0 Introduction

This is an assessment of a proposed strategic housing development submitted to the An Bord Pleanála under section 4(1) of the Planning and Development (Housing) and Residential Tenancies Act 2016.

2.0 Site Location and Description

- 2.1. The subject site, which has a stated area of 1.22 hectares, is located on the northern fringe of Dublin City, fronting onto the Malahide Road, at Clarehall, Dublin 17. The site comprises of a Circle K filling Station and other derelict commercial buildings with former use of motor showroom and offices, together with a vacant secured area, which forms the larger southern element of the site. The southern element of the site is fenced off comprising an overgrown previous parking area where dumping was evident. This element of the site detracts significantly from the streetscape at this location.
- 2.2. The site is bound to the north by a tyre centre which adjoins a main access into the Clarehall Shopping Centre and Clarehall Residential Village to the east of the site. Grove Lane, is located to the south, and is a private road providing access to the adjoining Clarehall Village apartment development. Single storey dwellings are located to the west, along Grove Park.

3.0 Proposed Strategic Housing Development

- 3.1. The proposal, as per the submitted public notices, comprises the demolition of existing structures on site and construction of 331 no. build-to-rent apartments, childcare facility, three commercial units and associated site works. The following tables set out some of the key elements of the proposed scheme:

Table 1: Key Figures

Site Area	1.22 ha (gross)/1.054 ha (nett)
No. of residential units	331 apartments
Other Uses	Residential Amenity Space (903m ²) 3x Commercial units and 1 x Childcare facility (659m ²)
Density	314 units/ha
Plot ratio	3.12
Site Coverage	59%
Height	8-10 storeys
Part V	33 units- 8 x 1 bed, 16 x 2bed/4P, 8 x 2bed/duplex, 1 x 3bed/duplex
Public Open Space	1771m ²
Parking	201 car parking spaces 640 bicycle parking spaces

Table 2: Unit Mix

	1 bed	2 bed (3 persons)	2 bed (4 persons)	2 bed (4 persons) Duplex	3 bed (5 persons) Duplex	Total
Apartments	82	13	226	8	2	331
As % of total	25%	4%	68%	2.5%	0.5%	100%

- 3.2. In term of site services, a new water connection to the public mains is proposed, together with a new connection to the public sewer. An Irish Water Pre-Connection Enquiry in relation to water and wastewater connections was submitted with the application, as required. It states that subject a valid connection agreement being put in place and conditions listed, the proposed wastewater connection to the Irish Water network can be facilitated. It continues by stating that the CoF does not extend to fire flow requirements. A Statement of Design Acceptance from IW was also

submitted with the application, which states that based on the information provided, IW has no objections to the proposal.

- 3.3. A BTR Management Plan and draft legal covenant has been submitted with the application.
- 3.4. A right of way is demarcated on the lands.
- 3.5. A letter of consent from Dublin City Council stating that they have no objection to the inclusion of lands within their control, specifically lands within the footpath and roadway along Malahide Road and Grove Lane as indicated on hatched attached map, for the purpose of making a SHD application.

4.0 Planning History

Subject Site

PL29N.248050 (Reg. Ref. 3584/16)

Permission REFUSED on appeal for a nursing home, restaurant and workshop for one reason, which related to the proposed development being contrary to the objectives for this Key District Centre area, would be a barrier to their achievement and would accordingly be contrary to the proper planning and sustainable development of the area.

PL29N.244821 (Reg. Ref. 3758/14)

Permission REFUSED for a two storey convenience store with undercroft and surface car parking.

Nearby Sites:

The Chief Executive report of the planning authority details an extensive planning history for lands within the general area and I refer the Bord to same. Of particular note is:

Permission GRANTED for SHD application of 132 build-to-rent apartments on site to south-east

5.0 Section 5 Pre Application Consultation

5.1. A Section 5 pre application consultation took place at the offices of An Bord Pleanála on the 20th August 2019. Representatives of the prospective applicant, the planning authority and An Bord Pleanála were in attendance. Following consideration of the issues raised during the consultation process, and having regard to the opinion of the planning authority, An Bord Pleanála was of the opinion that the documentation submitted required further consideration and amendment to constitute a reasonable basis for an application for strategic housing development to An Bord Pleanála. The prospective applicant was advised that the following issues need to be addressed in the documents submitted that could result in them constituting a reasonable basis for an application for strategic housing development:

Design and Layout.

1. Further consideration and/or justification of documents as they relate to the proposed elevation treatment and design of balconies, having regard to the scale and mass of the proposed buildings in particular Block B, its dominant location along the Malahide Road, and the need for a high quality urban design which will have a positive contribution to a Key District Centre and surrounding environment. Particular regard should be had 12 criteria set out in the Urban Design Manual which accompanies the 'Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas' (May

2009). Further consideration of these issues may require an amendment to the documents and/or design proposals submitted.

Residential Amenity

2. Further consideration and/or justification of the documents as they relate to the impact of shadow projection on existing residential properties in the vicinity of the site and the daylight provision for the proposed apartments *inter alia* the provision of a comprehensive daylight and sunlight analysis addressing the existing residential, in particular the inclusion of dual aspect units along the front, west of Clarehall Residential Village.

5.2. In addition the prospective applicant was advised that the following specific information was required with any application for permission:

1. Details of all materials proposed for buildings, open spaces, paved areas, boundary and retaining walls and a building life cycle report in accordance with section 6.3 of the Sustainable Urban Housing: Design Standards for New Apartments (2018).
2. Details of all areas designated for waste for both residential and commercial and the compliance with the minimum areas and recycling facilities in accordance with section 4.8 and 4.9 of the Sustainable Urban Housing: Design Standards for New Apartments (2018).
3. A detailed schedule of accommodation which indicates consistency with relevant standards in the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities' (2018) including a report which addresses the use of the residential support facilities.
4. Submission of a car parking strategy indicating the allocation for designated car parking spaces for retail, commercial and/or residential and all or any

areas which are applicable for car club facilities and/or electric vehicle charging.

5. A plan of the proposed open space within the site clearly delineating public, semi-private and private spaces, areas to be gated and hours of operation.
6. Childcare demand analysis, including but not restricted to the justification for size of the proposed crèche, having regard to the existing childcare facility in Clarehall residential development, the likely demand and use for childcare places and the accommodation of additional requirement resulting from the proposed development.
7. Inclusion of a Social and Community Audit of the schools in the vicinity in particular school going children.
8. Full details of all works to be provided along the boundaries of the site included both within the red line and outside and relevant consents to carry out works on lands not included within the red-line boundary.
9. A Site Specific Management Plan which includes details on management of the retail units, communal areas, public space, residential amenity and apartments.
10. Addition CGIs/visualisations/3D modelling showing the proposed development relative to existing and proposed development, in particular the inclusion of the proposed duplex units to the rear along the private road facing the Clarehall residential development.
11. The information referred to in article 299B (1)(b)(ii)(II) and article 299B(1)(c) of the Planning and Development Regulations 2001-2018 should be submitted as a standalone document.
12. Where the applicant considers that the proposed strategic housing development would materially contravene the relevant development plan or local area plan, other than in relation to the zoning of the land, a statement

indicating the plan objective (s) concerned and why permission should, nonetheless, be granted for the proposed development, having regard to a consideration specified in section 37(2)(b) of the Planning and Development Act 2000. Notices published pursuant to Section 8(1)(a) of the Act of 2016 and Article 292 (1) of the Regulations of 2017, shall refer to any such statement in the prescribed format.

Applicant's Statement

A statement of response to the Pre-Application Consultation Opinion was submitted with the application, as provided for under section 8(1)(iv) of the Act of 2016.

It is noted that the number of units proposed has decreased from 347 no. at pre-application stage to 331 units in the current proposal. The number of car parking spaces has also decreased from 238 at pre-application stage to 201 currently proposed.

6.0 Relevant Planning Policy

National Planning Policy

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

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

- Architectural Heritage Protection

Other policy of note is:

- National Planning Framework
- Regional Spatial & Economic Strategy for the Eastern & Midland regional Assembly

Local Planning Policy

The Dublin City Development Plan 2016-2022 is the operative City Development Plan.

Zoning:

‘Objective Z14’ which aims to ‘seek the social, economic and physical development and/or rejuvenation of an area with mixed use, of which residential and “Z6” would be the predominant uses’.

The site is located within the:

- Strategic Development and Regeneration Area 1 North Fringe (Clongriffin-Belmayne) (SDRA 1)
- ‘North Fringe West Key District Centre (KDC) 1 of the Clongriffin-Belmayne (North Fringe) LAP 2012-2018 (extended to 2022)

Section 16.7 Building Height

- Low Rise/Outer City- Maximum Height 16m/5 storeys for residential
- Within 500m of a DART station- Maximum height 24m/8 storeys for residential

Map J- Strategic Transport and Parking Areas

- Zone 3
- Residential car parking standard of 1.5 spaces/residential unit. Cycle parking 1 per unit for all zones.

Clongriffin-Belmayne Local Area Plan 2012-2018 (extended to 2022)

Section 7.8 Building Height

Three areas are designated for potential higher buildings, one being the R139/R107 Malahide Road Junction.

The site is located along a Quality Bus Corridor and has been designated as a Bus Connects Corridor 1-Clongriffin to the City Centre.

7.0 Third Party Submissions

7.1. In total, 7 submissions were received. Of these, 2 were from public representatives. The submissions received may be broadly summarised as follows, with reference made to more pertinent issues within the main assessment:

- Principle of build-to-rent at this location/developer-led planning
- Extent of build-to-rent developments permitted within wider area
- Impacts on creation of community
- Unit size
- Height and impacts on streetscape
- Density
- Insufficient daylight, in particular to Part V units
- Inadequate childcare provision/ inadequate social infrastructure
- Impacts on residential amenity
- Traffic concerns- proximity to public transport, increased traffic and lack of parking provision

8.0 Planning Authority Submission

8.1. In compliance with section 8(5)(a) of the 2016 Act the planning authority for the area in which the proposed development is located, Dublin City Council, submitted a report of its Chief Executive Officer in relation to the proposal. This was received by An Bord Pleanála on 23rd January 2020. The report may be summarised as follows:

Information Submitted by the Planning Authority

Details were submitted in relation to the site description, proposal, pre-application

consultations, planning history, interdepartmental reports, Area Committee Meeting details, policy context. A summary of representations received was outlined.

Summary of Inter-Departmental Reports

Drainage Division: No objections, subject to conditions

Transportation Division: Broadly satisfied with proposal, conditions attached. Concerns raised in relation to extent of car parking proposed, in particular when taken in conjunction with permitted scheme on adjacent site

Parks and Landscape Services: Conditions recommended

Planning and Property Development Department: John Spain Associates on behalf of Claregrove Developments Ltd has previously engaged with the Housing Department in relation to the above development and are aware of the Part V obligations pertaining to this site if permission is granted

A detailed and informative report has been received from the planning authority. Pertinent issues raised therein shall be referred to throughout my assessment. The report concludes that having regard to the nature and scale of the proposed development, the established pattern of development in the area and the relevant provisions of the Clongriffin-Belmayne LAP, SDRA 1 and the current Development Plan, it is considered that the proposed development would be consistent with the provisions of these plans and therefore be consistent with the proper planning and sustainable development of the area and will allow for the continued progression towards the long terms objectives for the completion of the North Fringe KDC 1 (West) in the interests of urban consolidation of the city area.

Conditions attached

The report includes a summary of the views of relevant Elected Members, as expressed at the North Central Area Committee meeting held on 13/12/19 and are broadly summarised below:

- SHD process
- Traffic/transport concerns
- Lack of local employment

- Additional housing would be welcome in the area, BTR model attracts a more transient population, does not contribute to building of sustainable community
- Queried if proposal met standards for BTR scheme
- Height of proposal and impacts in terms of overshadowing, daylight

9.0 Prescribed Bodies

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

- Irish Water
- Transport Infrastructure Ireland
- National Transport Authority
- Irish Aviation Authority
- Dublin Airport Authority
- Commission for Energy Regulation
- Dublin County Childcare Committee

Four bodies have responded and the following is a brief summary of the points raised. Reference to more pertinent issues are made within the main assessment.

Irish Water:

Based upon the details provided by the developer and the Confirmation of Feasibility issued by Irish Water, Irish Water confirms that subject to a valid connection being put in place between Irish Water and the developer, the proposed connection(s) to the Irish Water network(s) can be facilitated.

Irish Aviation Authority:

In the event of permission being granted, the applicant should engage with DAA to ensure that crane operations does not impact on flight procedures. Should be conditioned to contact Authority of intention to commence crane operations within a minimum of 30 days prior notification of their erection.

Transport Infrastructure Ireland

No observations to make

National Transport Authority

Recommends that, in the event of permission being granted, a condition be attached which requires the applicant to reconfigure the access to the proposed car parks in order to provide, as part of the development, a two-way access road to the private road to the rear of the site to access the proposed development in its entirety. This access may remain gated in the period before the Clongriffin-City CBC is complete, the opening of this rear access would facilitate the closure of the left-in left-out junction on the Malahide Road and would obviate the requirement for use part of Grove Lane for access to Block A.

10.0 **Assessment**

10.1. I have had regard to all the documentation before me, including, *inter alia*, the report of the planning authority; the submissions received; the provisions of the Dublin City Development Plan 2016; the provisions of the Clongriffin-Belmayne LAP 2012; relevant section 28 Ministerial guidelines; provisions of the Planning Acts, as amended and associated Regulations. I have visited the site and its environs. In my mind, the main issues relating to this application are:

- Principle of proposed Build-to-Rent development
- Design and layout
- Impacts on amenity
- Traffic and transportation
- Drainage
- Other matters

10.2. The attention of the Bord is drawn to the fact that permission for 132 build-to-rent units was recently permitted under the SHD process (ABP-304196-19) on a site immediately to the south-east of the subject site.

10.3. Principle of Proposed Development

10.3.1. Having regard to the nature and scale of development proposed, namely an application for 331 residential units located on lands for which residential development is anticipated to be the predominant use under the zoning objective, I am of the opinion that the proposed development falls within the definition of Strategic Housing Development, as set out in section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016. I am also of the opinion that the proposal is generally consistent with the City Development Plan's Z14 zoning objective.

11.1.1 The attention of the Board is drawn to the fact that this is a Build to Rent Scheme. Section 5 of the Sustainable Urban Housing: Design Standards for New Apartments, 2018 provides guidance on Build-to-Rent (BRT) and Shared Accommodation sectors. The guidelines define BTR as "purpose built residential accommodation and associated amenities built specifically for long-term rental that is managed and serviced in an institutional manner by an institutional landlord". These schemes have specific distinct characteristics which are of relevance to the planning assessment. The ownership and management of such a scheme is usually carried out by a single entity. A Management Plan, Built to Rent Scheme and a draft covenant have been submitted with the application. Having regard to the location of the site in proximity to the city centre, beside excellent public transport facilities, I am satisfied that a Built to Rent scheme is suitable and justifiable at this location. The proposal will provide a viable housing solution to households where home-ownership may not be a priority. The residential type and tenure provides a greater choice for people in the rental sector, one of the pillars of Rebuilding Ireland.

11.1.2 I refer the Board to the provisions of Specific Planning Policy Requirement 7 which provides that:

BTR development must be:

- (a) Described in the public notices associated with a planning application specifically as a 'Build-to-Rent' housing development that unambiguously categorises the project (or part thereof) as a long-term rental housing scheme, to be accompanied by a proposed covenant or legal agreement further to which appropriate planning conditions may be attached to any grant

of permission to ensure that the development remains as such. Such conditions include a requirement that the development remains owned and operated by an institutional entity and that this status will continue to apply for a minimum period of not less than 15 years and that similarly no individual residential units are sold or rented separately for that period:

(b) Accompanied by detailed proposals for supporting communal and recreational amenities to be provided as part of the BTR development. These facilities to be categorised as:

(i) Residential support facilities – comprising of facilities related to the operation of the development for residents such as laundry facilities, concierge and management facilities, maintenance/repair services, waste management facilities, etc.

(ii) Residential Services and Amenities – comprising of facilities for communal recreational and other activities by residents including sports facilities, shared TV/lounge areas, work/study spaces, function rooms for use as private dining and kitchen facilities, etc.

10.3.2. The public notices refer to the scheme as 'Build-to-Rent' and a draft deed of covenant indicates that the applicant is willing to accept a condition requiring that the residential units remain in use as BTR accommodation, that no individual residential unit within the development be disposed of to any third party for a period of 15 years only from the date of grant of permission. I note that the submitted covenant is generic in nature and not fully complete. The matter could be adequately dealt with by means of condition.

10.3.3. In terms of resident support facilities and resident services and amenities, I note that 903 m² of such services and facilities are proposed, mainly located within Block B. The PA highlight the fact that the pro-rata provision is lower than that provided for in the permitted BTR scheme adjoining in Clarehall. They also recommend that all internal communal rooms/spaces be provided with dedicated toilet facilities or have access to same. I note that this figure does not include for the proposed lettable storage area in Block B.

10.3.4. SPPR 8 sets out proposals that qualify as specific BTR development in accordance with SPPR 7. In this regard, no restrictions on dwelling mix apply and therefore the units mix is considered acceptable, including the extent of one bed units. Flexibility also applies in relation to the provision of a proportion of the storage and private amenity spaces associated with individual units as set out in Appendix 1 and in relation to the provision of all of the communal amenity space as set out in Appendix 1, on the basis of the provision of alternative, compensatory communal support facilities and amenities within the development. The proposal in this instance seeks minimal relaxations in residential amenity standards, with all units generally consistent with the requirements of the Apartment Guidelines, with the exception of private open space provision. This is dealt with below. I consider that any subsequent extension of use of the subject accommodation as BTR beyond the 15 years should be agreed with the planning authority prior to the expiration of the covenant, or any proposal to alter the tenancy type should be subject to a further planning application so as to allow further assessment of residential amenity associated with the subject units or suitability of the scheme for any other purpose that maybe proposed in the future.

10.3.5. The site is located within an area which has the benefit of the 'Clongriffin-Belmayne LAP (extended to 2022) and the site itself is within an area referred to as 'KDC 1. It is located within the SDRA 1 North Fringe, which reaffirms the general objectives of the LAP. Guiding principles for this SDRA have been outlined within the operative City Development Plan. I note that the North Fringe has been identified in national policy as one of four key locations within the Dublin City Council administrative area to deliver significant residential development. I am of the opinion, as is the planning authority, that the proposal largely accords with the objective of the LAP for the area.

10.3.6. I note that the applicants have submitted a material contravention statement in relation to the matter of height and have advertised same within their public notices, as required under the legislation. Reference is made within the statement to the adoption of Urban Development and Building Heights – Guidelines for Planning Authorities (2018), amongst other national guidelines as part justification for the development proposed. The proposal ranges from 8-10 storeys. The proposal breaches section 16.7 of the operative City Development Plan which allows for a

maximum height of 16 metres in the outer city (up to 24m beside rail stations) and it is considered to be a material contravention of both the operative City Development Plan and LAP. The maximum stated height of the proposed development is 31.773m.

10.3.7. The LAP and SDRA1 have specific height objectives in certain areas within the LAP and I note that that three areas are identified for potential future height, which are the Key District Centre's at Clongriffin rail station and the R139/Malahide Road junction and the axis of Main Street Boulevard connecting the two. Section 7.8 further states that these locations have been identified based on the understanding of the existing urban structure of North Fringe and the vision to create a compact and sustainable urban neighbourhood. The LAP recommends that in general, minimum heights for new developments in the designated Key District Centres of five storeys. This is acknowledged by the applicants in their Material Contravention Statement. The applicants also refer to schemes recently permitted in the nearby area, in particular ABP-304196-19 on adjacent site to the north, which ranged from 4-9 storeys. I would consider that the subject site is not dissimilar in characteristics to this adjacent site.

10.3.8. Block A ranges in height from 8-9 storeys while Block B has a height of 9-10 storeys. Under the Planning and Development Act 2000, the Bord is precluded from granting permission for development that is considered to be a material contravention, except in four circumstances. These circumstances, outlined in Section 37(2)(b), are in the national, strategic interest; conflict with national/regional policy; ambitious policy within the development plan and the pattern of permissions in the vicinity since the adoption of the development plan. The current application has been lodged under the strategic housing legislation. I note the policies and objectives within Rebuilding Ireland – The Government's Action Plan on Housing and Homelessness and the National Planning Framework – Ireland 2040 which fully support and reinforce the need for urban infill residential development such as that proposed on sites in close proximity to quality public transport routes and within existing urban areas. I consider this to be one such site. The NPF also signals a shift in Government policy towards securing more compact and sustainable urban development and recognises that a more compact urban form, facilitated through well designed higher density

development is required. I am also cognisant of the Urban Development and Building Heights, Guidelines for Planning Authorities (2018) which sets out the requirements for considering increased building height in various locations but principally, inter alia, in urban and city centre locations and suburban and wider town locations. I have had particular regard to the development management criteria, as set out in section 3.2 of these Guidelines, in assessing this proposal.

10.3.9. The proposed development is in keeping with the aforementioned 2018 Guidelines on building height. SPPR1 of those guidelines supports increased building height in locations with good public transport accessibility. I consider this to be one such location. The applicant can demonstrate compliance with the criteria for higher buildings set out under SPPR3 of the guidelines which allow a planning authority to approve development even where a development or local area plan indicates otherwise, namely –

- The site is located beside a high capacity public transport service along the Malahide Road
- The height is appropriate for the context of the site. The site is currently underutilised and the proposal, if permitted would enhance the streetscape at this location
- The proposed development has an acceptable architectural standard with an appropriate urban edge. It would improve the quality of the street, the pedestrian environment and the public realm
- The range in heights up to ten storeys takes account of the surrounding context of development including recently permitted development on adjacent site and the existing residential properties in the area with reduced height
- The proposed development has been designed to minimise impacts on existing residential development.

10.3.10. I am of the opinion that given its zoning, the delivery of residential development on this prime, underutilised site, in a compact form comprising well-designed, higher density units would be consistent with policies and intended outcomes of current Government policy. The site is considered to be located in a central and accessible location, it is within easy walking distance of good quality

public transport in a serviced area. The proposal serves to widen the housing mix within the general area and would improve the extent to which it meets the various housing needs of the community. I consider that the proposal does not represent over-development of the site and is acceptable in principle on these lands.

10.4. Design and Layout

- 10.4.1. The proposal involves the construction of 331 residential apartments in two no. blocks, ranging in height from 8-10 storeys. A central open space is located between the two blocks. I note the development that has been permitted within the wider area. I consider that the site has the capacity to absorb a development of the nature and scale proposed, without detriment to the amenities of the area. The site in its current form, adds little to the streetscape at this location and I am of the opinion that the appropriate re-development of these lands would add significantly to the visual amenity of the area. I consider that the proposed development before me would be a suitable intervention at this location, given its location beside a high frequency bus service and beside a key district centre where there is significant existing employment and the potential for more. While the proposed height at a maximum of 10 storeys would be higher than surrounding development, I consider that the height and density proposed to be in keeping with national policy in this regard.
- 10.4.2. The matter of unit mix has been dealt with above, however I note that the mix of units at 82 x 1 bed; 247 x 2 bed and 2 x 3 bed units is acceptable. Given the extent of three-bed dwellings in the wider locality, this mix is considered acceptable and would introduce a significant new element to the prevailing housing mix of the area. Unit size is also acceptable and all units meet or exceed minimum standards, as set out in the 2018 Apartment Guidelines.
- 10.4.3. Density as proposed, at approximately 314 units/ha is considered appropriate for this urban location and in compliance with relevant section 28 ministerial guidelines. I note the density in the recently permitted development (ABP-304196-19), adjacent was 346 units/ha and therefore this proposal is considered to be consistent with same. The proposed development is in excess of the minimum density required under the 2009 guidelines on sustainable urban residential development, which

advises that minimum net densities of 50dph should be achieved along public transport corridors

10.4.4. I draw the attention of the Bord to the fact that extensive public open space exists across the Malahide Road. Public open space is provided in the form of a strip along the Malahide Road. A central open space area is also proposed, however I would concur with the opinion of the PA that this is a more privatised area with controlled and time limited public access, (sliding gate shown on drawings). It is also noted that the main access to the play area located within this central open space is through the rear private road, not overly accessible to the general public. It is stated in the documentation that the public open space area accounts for approximately 17% of the site area. It is noted that the figure used to calculate this appears to be the gross site area (which includes for DCC lands), and not the nett area which has been used to calculate other parameters like density. I would concur with the PA in their report that this main area along the Malahide Road seems more akin to a landscaped buffer zone in character and function than a destination space. It is the opinion of the PA that the open space provision is more appropriately calculated as being 12.5% of the developer's site area. I would concur with this. However, as this figure is in excess of the 10% open space requirement of the City Development Plan, there is no shortfall and no requirement for payment of additional contributions. If the Bord is disposed towards a grant of permission, I recommend that the proposed sliding gates be omitted by condition and that the central area of open space be available to all, unlimited in time. In addition, details pertaining to the landscaping of all areas of public/communal open space be agreed with the planning authority, prior to the commencement of any works on site. Communal open space is provided primarily at podium level by means of courtyard gardens. Private open space is provided by means of balconies/terraces to all units. A landscape plan and associated drawings have been submitted with the application. I am generally satisfied with the information before me with regards to the issue of landscaping. A high degree of passive surveillance is noted. Permeability through the site is good, once the sliding gates are omitted from the proposal. I am of the opinion that the narrow landscaped area to the rear of Blocks A and B should be gated for the private/communal use of the residents. Again this matter could be dealt with by means of condition.

- 10.4.5. Materials and finishes proposed would integrate with the finishes on the existing permitted development in the wider area. The elevational treatment, while acceptable, is quite generic in nature. Exact details relating to same should be dealt by means of condition, if the Bord is disposed towards a grant of permission.
- 10.4.6. A childcare facility, with a stated capacity for 40 children is proposed, with stated floor area of 198 square metres within Block B. The scheme has a requirement for a childcare facility of 62 children. The applicants have submitted a justification for the shortfall in places, which includes that there is a vacant crèche facility in the immediately adjoining development. I am satisfied with the proposal in this regard.
- 10.4.7. In relation to Part V, it is noted that 33 units are proposed (8 x 1 bed, 24 x 2 bed and 1 x 3 bed). The planning authority have not raised issue in this regard and I am satisfied with same.

10.5 Impacts on Amenity

- 10.5.1 The application is accompanied by a number of landscape and visual impact documentation, together with verified CGIs and photomontages. The information contained therein is considered acceptable. I have addressed the matter of visual amenity above and reiterate that the site in its current form, adds little to the streetscape at this location. Dumping was evident towards its southern end, it is overgrown and underutilised. I am of the opinion that the appropriate re-development of these lands would add significantly to the visual amenity of the area.
- 10.5.2 In terms of impacts on residential amenity, I have examined all the documentation before me and it is acknowledged that the proposal will result in a change in outlook for some of the local residents, as the site changes from an underdeveloped piece of land to a site accommodating development of the nature and scale proposed. Given the location of the site, I do not consider this change to be a negative. This is an underdeveloped piece of serviceable land, where residential development is open for consideration. As has been previously stated, the development site is located within a newly emerging part of the city, in close proximity to public transport links. The proposal will offer a benefit to the wider community by virtue of its public open space provision, and the connectivity through to adjoining lands.

10.5.3 Having regard to the orientation of the site, the separation distances involved and the design of the proposed units, I do not have undue concerns with regards the impacts on amenity of properties in the vicinity. Given the orientation of the site, together the design and layout of the proposed scheme, I consider that overlooking of adjoining properties would not be excessive in this instance and would not be so great as to warrant a refusal of permission. A daylight and sunlight analysis has been submitted and I do acknowledge that there will be some negative impacts in terms of daylight/sunlight for existing residential development, most notably in the development to the south of the site. Whether this justifies refusing permission is a matter for the Board to determine, however it is my opinion that the proposed development would provide a substantial amount of residential accommodation at an accessible location at a density and height that is in keeping with national policy. It would provide a good standard of residential amenity for its occupants and would make a positive contribution to the character of the area. The submitted design achieves a reasonable setback from existing apartments, the proposed apartments are generally north of the existing ones, and so would have a lesser impact in terms of overshadowing. And so a balance needs to be achieved. I am of the opinion that impacts on daylight/sunlight are not so great as to warrant a refusal of permission in this instance.

10.5.4 I consider that impacts on privacy would not be so great as to warrant a refusal of permission. I have no information before me to believe that the proposal, if permitted would lead to devaluation of property in the vicinity. This is an urban location and some degree of overlooking/overshadowing/loss of light is to be anticipated at such locations. A Microclimate Impact Assessment Report has been submitted with the application and I would concur with the opinion of the PA that its contents appear limited compared to other assessments undertaken. I am however generally satisfied with the information contained therein.

10.5.5 There may be some noise disruption during the course of construction works. Such disturbance is anticipated to be relatively short-lived in nature. The nature of the proposal is such that I do not anticipate there to be excessive noise/disturbance once construction works are completed. However, if the Bord is disposed towards a grant of permission, I recommend that a Construction Management Plan should be

submitted and agreed with the Planning Authority prior to the commencement of any works on site.

- 10.5.6 The level of amenity being afforded to future occupants is considered good. Adequate separation distances are proposed between blocks to avoid issues of overshadowing or overlooking. The matter of obscuring privacy screens should be dealt with by means of condition. The submitted daylight and sunlight analysis indicates that adequate light would be available to the proposed apartments and open spaces. The standard of amenity that the proposed development would provide its residents is therefore acceptable.
- 10.5.7 In terms of private open space provision, it is noted that there are 14 no. units that do not have a balcony or other form of private open space. It is stated in the documentation that these balconies have been omitted so as to ensure adequate daylight into the affected units. However they will overlook an outdoor terrace below. They further state that the overall development provides for compensatory measures in the form of residential amenity facilities. SPPR8 is noted in this regard which gives flexibility to such provision. I note the opinion of the PA in this regard, whereby they recommend that there is a redesign that provides for amalgamation of units and/or a redesign of the 8-storey returns in relation to the cut-out areas so as that all future occupants will be provided with the option of using a balcony. This is a matter for the Bord to determine. I am of the opinion that given the nature of the development, the national policy guidance in this regard and the residential amenity facilities provided, that the non-provision of private open space is acceptable in this instance. The matter of privacy screens to act as a buffer between side-on balconies should also be dealt with by means of condition. The PA also make recommendations in their report to whereby they highlight potential opportunities to maximise solar gain into units, for example there may be scope to extend the patio space of the duplex units further into the communal space so as to catch more sun. This is considered reasonable and would be a significant improvement on the quality of the scheme.
- 10.5.8 I would concur with the PA that it is preferable that the basement/podium ventilation is removed as far as possible from below or near windows and balconies/patios, and that the option of periscope type ventilation could be explored.

10.5.9 Having regard to all of the above, I am generally satisfied that the level of amenity being afforded to future occupiers of the proposed scheme is acceptable and the proposal if permitted would be an attractive place in which to reside. I am also satisfied that impacts on existing residential amenity would not be so great as to warrant a refusal of permission.

10.6 Traffic and Transportation

10.6.1 Works proposed to the public realm are welcomed and will benefit the wider community at this location.

10.6.2 I note the Inspector's Report relating to ABP-304196-19 in relation to access and parking and agree that the justification for the scale and form of the proposed development depends on its location being regarded as accessible by public transport and other sustainable modes. The accommodation of additional population in the area should therefore have the effect of reducing the demand on the road network in the city compared to the alternative of keeping the site as is and displacing population to less accessible locations. The prevention of development on this site would not be likely to have any noticeable impact on the periodic congestion along the Malahide Road. The proposed apartments would generate traffic movements at different times of the day than the shopping centre.

10.6.3 The amount of parking provided to serve the adjacent development was 0.6 spaces per unit in line with the advice in the 2018 guidelines on apartment design that car parking for build to rent units be significantly reduced. In this current proposal, 0.55 space/unit is proposed. While the Traffic Division of the PA have expressed concerns with the level of parking proposed, given the above in terms of locational context and proximity to public transport, I am satisfied with this figure. Allocation of spaces also causes concerns to the PA and I concur that this matter needs resolution. The matter could be adequately dealt with by means of condition. 640 cycle spaces are proposed and this is considered acceptable.

10.6.4 The proposed development reduces the number of vehicular access points, which will give a reduced number of conflict points along the Malahide Road and this is welcomed. It has been noted in some of the submissions received, including that from the NTA that access to the proposed development should be taken from Grove

Lane to the rear of the site and not directly onto the Malahide Road. I can understand the rationale for this opinion and would agree in principle. However, the PA state that this lane is in private ownership and has not been offered to be taken-in-charge to date. The applicant has noted during the application process that they have not received consent to access onto this lane. It is unclear whether this consent is forthcoming but is not attached to the application documents. I can only base my assessment on the documentation before me. The PA are satisfied that the proposed works outlined in the TTA and Road Safety Audit are acceptable and I am satisfied with same.

10.6.5 Given the location of the site within an urban area on zoned lands, I do not have undue concerns in relation to traffic or transportation issues. I acknowledge that there will be some increased traffic as a result of the proposed development, however there is a good road infrastructure in the vicinity of the site. Public transport is available in close proximity and it is anticipated that this will be improved upon in the coming times, as the population of this wider area increases. The reports of both the planning authority and the NTA are noted in this regard. Having regard to all of the above, I have no information before me to believe that the proposal would lead to the creation of a traffic hazard or obstruction of road users and I consider the proposal to be generally acceptable in this regard.

10.7 Drainage

10.7.1 In term of site services, a new water connection to the public mains is proposed, together with a new connection to the public sewer. An Irish Water Pre-Connection Enquiry in relation to water and wastewater connections has been submitted by the applicant, as required, as has a Statement of Design Acceptance. The Pre-Connection Enquiry states that subject to a valid connection agreement being put in place, the proposed connection to Irish Water network can be facilitated. The subsequent Statement of Design Acceptance states that based on the information provided, Irish Water has no objections to the proposal.

10.7.2 I note the engineering documentation submitted with the application, which includes for a Flood Risk Assessment. The information contained within these documents appears reasonable and robust. A report was received from Irish Water, at application stage, which raises no objections to the proposal. The report of the

Engineering Department of the planning authority, as contained in the Chief Executive Report, states that there is no objection to the proposal, subject to proposed conditions.

- 10.7.3 I note that this is a serviced, appropriately zoned brownfield site at an urban location. I consider that having regard to all of the information before me, including the guidance contained within the relevant Section 28 guidelines on flood risk management that the matter of drainage and flooding can be adequately dealt with by means of condition and I have no information before me to believe that the proposal if permitted would be prejudicial to public health.

10.8 Other Matters

- 10.8.1 Matters relating to waste disposal should be dealt with by means of condition, if the Board is disposed towards a grant of permission. I note that an Operational Waste Management Plan was submitted with the application.
- 10.8.2 I note the location of the subject site relative to Dublin airport and its associated flight paths, located to the south of the nearest eastern aircraft approach to Dublin Airport. A report has been received at application stage from the Irish Aviation Authority and its contents noted. If the Board is disposed towards a grant of permission, I recommend that a condition be attached in this regard.
- 10.8.3 No biodiversity survey has been provided, however it is considered that the existing environment has a relatively low local bio-diversity value, with very limited natural cover. It is unclear if the site is free of invasive species however and this matter should be dealt with by means of condition.

10.9 Appropriate Assessment

- 10.9.1 An Appropriate Assessment, Stage 1 Screening Report was submitted with the application. I am satisfied that adequate information is provided in respect of the baseline conditions, potential impacts are clearly identified and sound scientific information and knowledge was used. The information contained within this report is considered sufficient to allow me undertake an Appropriate Assessment of the proposed development.

10.9.2 The Screening Report states that the site is not located within or directly adjacent to any Natura 200 area. The site lies within the built-up residential zone of the city and is predominantly composed of brownfield surfaces that are sealed with tarmac and concrete. There is currently no attenuation of surface water and rain falling on the site runs off to local drains. A new surface drainage system will be installed which is required to comply with the Greater Dublin Strategic Drainage System (GDSDS) and includes on-site storage with excess discharge via oil/grit interceptors and flow control devices. Additional SUDS include a green roof and filter trenches. This discharges to a public surface water sewer which enters the River Mayne. The Mayne River flows a short distance to the north of the site boundary and this discharges into Baldoyle Bay. Foul effluent from the proposed development will be sent to the wastewater treatment plant at Ringsend, Dublin. It is acknowledged that emissions from the plant are currently not in compliance with the Urban Wastewater Treatment Directive, however Irish Water was granted permission to upgrade the Ringsend plant (April 2019). This will see improved treatment standards and will increase network capacity by 50%, with a target completion date of 2023. Fresh water supply for the development will be via a mains supply.

10.9.3 The following designated sites are considered to be located within the zone of influence of the proposed development.

Table 3:

Site Name and Code
Baldoyle Bay SAC (000199)
South Dublin Bay SAC (000210)
South Dublin Bay and River Tolka Estuary SPA (004024)
Baldoyle Bay SPA (004016)

10.9.4 Qualifying Interests/Features of Interest have been outlined within the Stage 1 Screening Assessment for each of the designated sites listed above.

Table 4:

South Dublin Bay cSAC	Baldoyle Bay SAC	Baldoyle Bay SPA	South Dublin Bay and River Tolka Estuary SPA (004024)
Mudflats and sandflats not covered by seawater at low tide	Salicornia mudflats	Light-bellied Brent Goose	Light-bellied Brent Goose
Annual vegetation of drift lines	Atlantic/Mediterranean Salt Meadows	Shelduck Ringed Plover Golden Plover	Oystercatcher Ringed Plover Grey Plover Knot
Salicornia and other annuals colonising mud and sand		Grey Plover	Sanderling
Embryonic shifting dunes		Bar-tailed Godwit	Dunlin
		Wetland and Waterbirds	Bar-tailed Godwit Redshank Black-headed Gull Roseate Tern Common Tern Arctic Tern Wetland and Waterbirds

10.9.5 The proposed development lies outside the boundaries of any Natura 2000 site and therefore there will be no reduction in habitat. There will be no fragmentation/loss or disturbance of any designated site, given the separating distances involved. There is an indirect pathway through the foul sewer to Dublin bay via the Ringsend WWTP. However, there is no evidence that poor water quality is currently negatively effecting the conservation objectives of Natura 2000 areas in Dublin Bay. There is no evidence that pollution through nutrient input is affecting the conservation objectives of the South Dublin Bay and River Tolka Estuary SPA. As the proposed development does not have the potential to have an effect on any Natura 2000 site, there is no potential for it to have likely significant effects on any site in combination with any other plan or project

10.9.6 Therefore, having regard to the scale and nature of the proposed residential development of 331 apartments and its location within the built up area of the city on land that served by municipal sewers and that has already been subject to works

and largely laid out as hard surface, I am of the opinion that no Appropriate Assessment issues arise. I have had due regard to the screening report and data used by the applicant to carry out the screening assessment and the details available on the NPWS web-site in respect of the Natura 2000 sites identified, including the nature of the receiving environment and proximity to the nearest European site. I consider it is reasonable to conclude that on the basis of the information on the file which includes inter alia, AA screening report submitted by the applicant and all of the planning documentation, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on any European site, in view of the said sites' Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

10.10 Environmental Impact Assessment Screening

10.10.1 The current proposal is an urban development project that would be in the built-up area of a town but not in a business district. It is therefore within the class of development described at 10(b) of Part 2 of Schedule 5 of the planning regulations, and an environmental impact assessment would be mandatory if it exceeded the threshold of 500 dwelling units or 10 hectares. The number of proposed dwellings is 331 and the site area is 1.22 hectares (gross). The proposed development is therefore well below the applicable thresholds. It would be located within the built up area of the city on land that has been previously subject to works. A preliminary examination of the nature, size and location of the proposed development has therefore concluded that there is no real likelihood of significant effects on the environment, having regard to direct, indirect and cumulative effects, and an EIA is not necessary.

11 Recommendation

11.1 In conclusion, I consider the principle of residential development to be acceptable on this site. I am of the opinion that this is a zoned, serviceable site within an emerging area where a wide range of services and facilities exist and proximate to good public transport links. In my opinion, the proposal will provide a quality development, with

an appropriate mix of units and an acceptable density of development catering to a range of people at varying stages of the lifecycle, in accordance with national policy. The provision of the public open spaces will enhance the amenity of the area for both existing and future occupiers.

11.2 I am satisfied that the proposal will not impact on the visual or residential amenities of the area, to such an extent as to warrant a refusal of permission. In fact, I consider that the proposal, if constructed as permitted would add to the visual amenity of the area and enhance the streetscape at this location.

11.3 I consider the proposal to be generally in compliance with both national and local policy, together with relevant section 28 ministerial guidelines. I also consider it to be in compliance with the proper planning and sustainable development of the area and having regard to all of the above, I recommend that permission is granted, subject to conditions.

12 Reasons and Considerations

13 Having regard to the following:

(a) the site's location close to Dublin city centre, within an emerging built-up area, including the bus corridor along the Malahide Road

(b) the provisions of the Dublin City Development Plan 2016-2022, including the zoning objective Z14, which aims to 'seek the social, economic and physical development and/or rejuvenation of an area with mixed use, of which residential and "Z6" would be the predominant uses'

(c) the policies set out in the Dublin City Development Plan 2016, including the designation of a key district centre at Clarehall,

(d) the Rebuilding Ireland Action Plan for Housing and Homelessness, (Government of Ireland, 2016),

(e) the Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March, 2013

- (f) the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, 2009
- (g) the Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for New Apartments, 2018
- (h) the Planning System and Flood Risk Management (including the associated Technical Appendices), 2009
- (i) Urban Development and Building Heights, Guidelines for Planning Authorities, 2018
- (j) the nature, scale and design of the proposed development,
- (k) the availability in the area of a wide range of social, community and transport infrastructure,
- (l) the pattern of existing and permitted development in the area,
- (m) the planning history within the area, and
- (n) the report of the Inspector and the submissions and observations received,

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

The height the proposed building exceeds the limit of 16 metres for this area set down by section 16.7.2 of the Dublin City Development Plan and the proposed development would materially contravene this provision of the Plan. Nevertheless it is considered that a grant of permission is warranted in accordance with section

37(2)(b)(iii) of the Planning and Development Act 2000, as amended, having regard to the provisions in favour of higher buildings set out in the Guidelines for Planning Authorities on Urban Development and Building Heights issued by the Minister under section 28 of the 2000 Act in December 2018 and the compliance of the proposed development with Specific Planning Policy Requirement 3 of those guidelines.

14 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the Planning Authority, the developer shall agree such details in writing with the Planning Authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Prior to commencement of any works on site, revised details shall be submitted to and agreed in writing with the planning authority with regard to the following:
 - (i) Details of privacy screens and buffer zones, which shall be provided between balconies at ground floor levels and above
 - (ii) High level window to be provided to the gable elevation of the ground floor living room of Duplex Unit No. 03 and Duplex No. 10, in order to improve access to daylight.
 - (iii) Details of changing/toilet facilities to be provided in close proximity to the ancillary residential facilities/services
 - (iv) Details of the gating of the rear of the rear landscaped circulation passageway to the rear of Blocks A and B, showing this area solely accessible to residents
 - (v) Details of the appropriate landscaping of the podium vents located within the communal open space, with the periscope system of venting maximised, if possible

- (vi) A taking in charge drawing clearly demarcating any such areas to be taken in charge
- (vii) An invasive species management plan

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

3. The development hereby permitted shall be for Build-to-Rent units and associated facilities which shall operate in accordance with the definition of Build-to-Rent developments as set out in the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (March 2018) and be used for long term rentals only. No portion of this development shall be used for short term lettings.

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

4. Prior to commencement of development on site, the developer shall submit, for the written agreement of the planning authority, details of the Management Company, established to manage the operation of the development together with a detailed and comprehensive Build-to-Rent Management Plan which demonstrates clearly how the proposed Build-to-Rent scheme will operate.

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

5. Prior to the commencement of development, the owner shall submit to and agreed in writing with the planning authority, details of a proposed covenant or legal agreement which confirms that the development hereby permitted shall remain owned and operated by an institutional entity for a minimum period of not less than 15 years and where no individual residential units shall be let or sold separately for that period.

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

6. Prior to expiration of the 15-year period referred to in the covenant, the owner shall be submitted to and agreed in writing with the planning authority, ownership details and management structures proposed for the continued operation of the entire development as a Build-to-Rent scheme. Any proposed amendment or deviation from the Build-to-Rent model as authorised in this permission shall be subject to a separate planning application.

Reason: In the interests of orderly development and clarity.

7. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the Planning Authority for such works and services.

Reason: In the interest of public health and to ensure a satisfactory standard of development.

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

Reason: In the interest of public health.

9. The period during which the development hereby permitted may be carried out shall be 5 years from the date of this Order.

Reason: In the interests of proper planning and sustainable development

10. The developer shall comply with all requirements of the planning authority in relation to roads, access, lighting and parking arrangements, including facilities for the recharging of electric vehicles. In particular:

(a) The roads and traffic arrangements serving the site (including signage) shall be in accordance with the detailed requirements of the Planning Authority for such works and shall be carried out at the developer's expense.

(b) The roads layout shall comply with the requirements of the Design Manual for

Urban Roads and Streets, in particular carriageway widths and corner radii;

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

(d) The materials used in any roads / footpaths provided by the developer shall comply with the detailed standards of the Planning Authority for such road works,

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

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

(g) A detailed mobility management strategy shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. The strategy shall address the mobility requirements of future residents and shall promote the use of public transport, cycling and walking, as well as identifying car club spaces outside of the development, in the vicinity of the site. This strategy shall be prepared and implemented by the management company for all units within the development. This strategy shall also incorporate a Car Parking Management Strategy for overall development, details of which to be agreed with the planning authority, prior to the commencement of development. It shall address the continual management and assignment of spaces to users and residents over time.

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

11. The site shall be landscaped in accordance with the submitted scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. The developer shall

retain the services of a suitably qualified Landscape Architect throughout the life of the site development works. The approved landscaping scheme shall be implemented fully in the first planting season following completion of the development or each phase of the development and any plant materials that die or are removed within 3 years of planting shall be replaced in the first planting season thereafter.

Reason: In the interest of residential and visual amenity.

12. Pedestrian access to the public open space areas, including the central open space area shall be permanent, open 24 hours a day, with no gates, security barrier or security hut at the entrance to the development or within the development in a manner which would prevent pedestrian access between the areas identified above.

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

13. Details of the materials, colours and textures of all the external finishes to the proposed buildings shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development.

Reason: In the interest of visual amenity.

14. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.

Reason: To protect the residential amenity of property in the vicinity and the visual amenity of the area.

15. Site development and building works shall be carried only out between the hours of 07.00 to 18.00 Mondays to Fridays inclusive, between 08.00 to 14.00 on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be

allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

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

Reason: In the interest of orderly development

17. All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site. In this regard, ducting shall be provided to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interest of orderly development and the visual amenities of the area.

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

- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,
- (b) employ a suitably qualified archaeologist who shall carry out site testing and monitor all site investigations and other excavation works, and
- (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

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

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection (in situ or by record) of any remains that may exist within the site

19. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with

the planning authority in relation to the provision of social and affordable housing in accordance with the requirements of section 96 of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter (other than a matter to which section 97(7) applies) may be referred by the planning authority or any other prospective party to the agreement to the Board for determination.

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

20. A plan containing details for the management of waste within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: To provide for the appropriate management of waste, and in particular recyclable materials, in the interest of protecting the environment.

21. A Final Site Specific detailed Construction and Environmental Management Plan (CEMP) shall be submitted, for the written agreement of the planning authority at least 5 weeks in advance of site clearance and site works commencing

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

22. Prior to the commencement of any works on site, the applicant shall ascertain and comply with all requirements of the Irish Aviation Authority in relation to this development.

Reason: In the interest of safety.

23. Details of all external signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. In this regard, signage

shall be restricted to individual lettering affixed directly to the building, without backlighting or internal illumination.

Reason: In the interest of the amenities of the area / visual amenity.

24. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the planning authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to the Board for determination.

Reason: To ensure the satisfactory completion of the development.

25. The developer shall pay to the Planning Authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the Planning Authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the Planning Authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the Planning Authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Recommended Draft Board Order

Planning and Development Acts 2000 to 2019

Planning Authority: Dublin City Council

Application for permission under section 4 of the Planning and Development (Housing) and residential Tenancies Act 2016, in accordance with plans and particulars, lodged with An Bord Pleanála on the 18th day of November 2019 by Claregrove Developments Ltd care of John Spain Associates, Dublin 2.

Proposed Development:

Permission for a strategic housing development on lands at Newtown, Malahide Road (R107), Dublin 17.

The proposed development will consist of:

- Demolition of all existing structures on the site;
- Provision of 331 no. **Build to Rent** residential units (82 no. 1 bed units, 13 no. 2 bed-3 person units, 226 no. 2 bed-4 person units, 8 no. 2 bed duplex units and 2 no. 3 bed duplex units), in two no. blocks (Block A, containing 93 units, to the south west and Block B, containing 238 units, to the north east), ranging in height from 8 to 10 no. storeys (including ground and mezzanine floor levels);
- Block A contains a double height ground floor level containing two no. commercial units (for Class 1- Shop / Class 2- Office / Restaurant / Café use), a reception area, and an internal / undercroft ground floor car park accessed off Grove Lane incorporating bicycle parking and refuse storage areas. 2 no. duplex units over two levels are located to the rear of Block A;
- Block B contains a double height ground floor level containing ancillary communal support facilities and amenities, which includes a reception area, a shared work space, a gym and a laundry, a commercial unit (for Class 1- Shop / Class 2- Office / Restaurant / Café use), and a childcare facility, with associated outdoor play area. 8 no. duplex units are located to the rear of

Block B over two levels. Block B includes an internal / undercroft car park area over four levels (including partial basement) to be accessed from the Malahide Road and incorporating car, motorcycle, bicycle parking and refuse storage areas;

- Block B contains an internal communal amenity space at seventh floor level, lettable storage space from first to eighth floor level and office space from first to sixth floor level and eighth floor level;
- The proposal contains a total of 201 no. car parking spaces, 640 no. cycle spaces and 11 no. motorcycle spaces;
- Public realm improvements are proposed along the Malahide Road and Grove Lane frontage and a central area of public open space is proposed between Block A and B. Outdoor communal open space areas are proposed at podium level and roof level;
- The proposed development will provide balconies / terraces on all elevations, boundary treatments and landscaping, two no. ESB sub-stations, drainage and service works, the closing off of existing vehicular entrances, the creation of a vehicular access and egress point from the Malahide Road (R107) and from Grove Lane, an enhanced pedestrian / cycle crossing on the Malahide Road and other associated works, and all ancillary site development works necessary to facilitate the development.

Decision

Grant permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

Matters Considered

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

Reasons and Considerations

In coming to its decision, the Board had regard to the following:

- (a) the site's location close to Dublin city centre, within an emerging built-up area, including the bus corridor along the Malahide Road
- (b) the provisions of the Dublin City Development Plan 2016-2022, including the zoning objective Z14, which aims to 'seek the social, economic and physical development and/or rejuvenation of an area with mixed use, of which residential and "Z6" would be the predominant uses'
- (c) the policies set out in the Dublin City Development Plan 2016, including the designation of a key district centre at Clarehall,
- (d) the Rebuilding Ireland Action Plan for Housing and Homelessness, (Government of Ireland, 2016),
- (e) the Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March, 2013
- (f) the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, 2009
- (g) the Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for New Apartments, 2018
- (h) the Planning System and Flood Risk Management (including the associated Technical Appendices), 2009
- (i) Urban Development and Building Heights, Guidelines for Planning Authorities, 2018

- (j) the nature, scale and design of the proposed development,
- (k) the availability in the area of a wide range of social, community and transport infrastructure,
- (l) the pattern of existing and permitted development in the area,
- (m) the planning history within the area, and
- (n) the report of the Inspector and the submissions and observations received,

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

The height the proposed building exceeds the limit of 16 metres for this area set down by section 16.7.2 of the Dublin City Development Plan and that the proposed development would materially contravene this provision of the plan. Nevertheless the Board considered that a grant of permission is warranted in accordance with section 37(2)(b)(iii) of the Planning and Development Act 2000, as amended, having regard to the provisions in favour of higher buildings set out in the Guidelines for Planning Authorities on Urban Development and Building Heights issued by the Minister under section 28 of the 2000 Act in December 2018 and the compliance of the proposed development with Specific Planning Policy Requirement 3 of those guidelines.

Appropriate Assessment

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on designated European Sites, taking into account the nature, scale and location of the proposed development within a zoned and serviced urban area, the Screening Report for Appropriate

Assessment submitted with the application, the Inspector's report, and submissions on file. In completing the screening exercise, the Board adopted the report of the Inspector and concluded that, by itself or in combination with other development in the vicinity, the proposed development would not be likely to have a significant effect on any European Site in view of the conservation objectives of such sites, and that a Stage 2 Appropriate Assessment is not, therefore, required.

Environmental Impact Assessment Screening

The Board completed an environmental impact assessment screening of the proposed development and considered that the Environmental Impact Assessment Screening Report submitted by the applicant, identifies and describes adequately the direct, indirect, secondary, and cumulative effects of the proposed development on the environment.

Having regard to:

- (a) the nature and scale of the proposed development on an urban site served by public infrastructure,
 - (b) the absence of any significant environmental sensitivities in the area,
 - (c) the location of the development outside of any sensitive location specified in article 109(3) of the Planning and Development Regulations 2001 (as amended),
- the Board concluded that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment. The Board decided, therefore, that an environmental impact assessment report for the proposed development was not necessary in this case.

Conclusions on Proper Planning and Sustainable Development

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

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the Planning Authority, the developer shall agree such details in writing with the Planning Authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Prior to commencement of any works on site, revised details shall be submitted to and agreed in writing with the planning authority with regard to the following:
 - (i) Details of privacy screens and buffer zones, which shall be provided between balconies at ground floor levels and above
 - (ii) High level window to be provided to the gable elevation of the ground floor living room of Duplex Unit No. 03 and Duplex No. 10, in order to improve access to daylight.
 - (iii) Details of changing/toilet facilities to be provided in close proximity to the ancillary residential facilities/services
 - (iv) Details of the gating of the rear of the rear landscaped circulation passageway to the rear of Blocks A and B, showing this area solely accessible to residents
 - (v) Details of the appropriate landscaping of the podium vents located within the communal open space, with the periscope system of venting maximised, if possible
 - (vi) A taking in charge drawing clearly demarcating any such areas to be taken in charge
 - (viii) An invasive species management plan

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

3. The development hereby permitted shall be for Build-to-Rent units and associated facilities which shall operate in accordance with the definition of Build-to-Rent developments as set out in the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (March 2018) and be used for long term rentals only. No portion of this development shall be used for short term lettings.

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

4. Prior to commencement of development on site, the developer shall submit, for the written agreement of the planning authority, details of the Management Company, established to manage the operation of the development together with a detailed and comprehensive Build-to-Rent Management Plan which demonstrates clearly how the proposed Build-to-Rent scheme will operate.

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

5. Prior to the commencement of development, the owner shall submit to and agreed in writing with the planning authority, details of a proposed covenant or legal agreement which confirms that the development hereby permitted shall remain owned and operated by an institutional entity for a minimum period of not less than 15 years and where no individual residential units shall be let or sold separately for that period.

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

6. Prior to expiration of the 15-year period referred to in the covenant, the owner shall be submitted to and agreed in writing with the planning authority, ownership details and management structures proposed for the continued operation of the entire development as a Build-to-Rent scheme. Any proposed amendment or deviation from the Build-to-Rent model as authorised in this permission shall be subject to a separate planning application.

Reason: In the interests of orderly development and clarity.

7. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the Planning Authority for such works and services.

Reason: In the interest of public health and to ensure a satisfactory standard of development.

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

Reason: In the interest of public health.

9. The period during which the development hereby permitted may be carried out shall be 5 years from the date of this Order.

Reason: In the interests of proper planning and sustainable development

10. The developer shall comply with all requirements of the planning authority in relation to roads, access, lighting and parking arrangements, including facilities for the recharging of electric vehicles. In particular:

(a) The roads and traffic arrangements serving the site (including signage) shall be in accordance with the detailed requirements of the Planning Authority for such works and shall be carried out at the developer's expense.

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

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

(d) The materials used in any roads / footpaths provided by the developer shall comply with the detailed standards of the Planning Authority for such road works,

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

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

(g) A detailed mobility management strategy shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. The strategy shall address the mobility requirements of future residents and shall promote the use of public transport, cycling and walking, as well as identifying car club spaces outside of the development, in the vicinity of the site. This strategy shall be prepared and implemented by the management company for all units within the development. This strategy shall also incorporate a Car Parking Management Strategy for overall development, details of which to be agreed with the planning authority, prior to the commencement of development. It shall address the continual management and assignment of spaces to users and residents over time.

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

11. The site shall be landscaped in accordance with the submitted scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. The developer shall retain the services of a suitably qualified Landscape Architect throughout the life of the site development works. The approved landscaping scheme shall be implemented fully in the first planting season following completion of the development or each phase of the development and any plant materials that die or are removed within 3 years of planting shall be replaced in the first planting season thereafter.

Reason: In the interest of residential and visual amenity.

12. Pedestrian access to the public open space areas, including the central open space area shall be permanent, open 24 hours a day, with no gates, security barrier or security hut at the entrance to the development or within the development in a manner which would prevent pedestrian access between the areas identified above.

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

13. 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. The extent of render finishes shall be minimised and details relating to an alternative finish shall be agreed in writing with the planning authority, prior to the commencement of development

Reason: In the interest of visual amenity.

14. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.

Reason: To protect the residential amenity of property in the vicinity and the visual amenity of the area.

15. Site development and building works shall be carried only out between the hours of 07.00 to 18.00 Mondays to Fridays inclusive, between 08.00 to 14.00 on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

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

Reason: In the interest of orderly development

17. All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site. In this regard, ducting shall be provided to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interest of orderly development and the visual amenities of the area.

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

- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,
- (b) employ a suitably qualified archaeologist who shall carry out site testing and monitor all site investigations and other excavation works, and
- (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

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

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection (in situ or by record) of any remains that may exist within the site

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

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

20. A plan containing details for the management of waste within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: To provide for the appropriate management of waste, and in particular recyclable materials, in the interest of protecting the environment.

21. A Final Site Specific detailed Construction and Environmental Management Plan (CEMP) shall be submitted, for the written agreement of the planning authority at least 5 weeks in advance of site clearance and site works commencing

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

22. Prior to the commencement of any works on site, the applicant shall ascertain and comply with all requirements of the Irish Aviation Authority in relation to this development.

Reason: In the interest of safety.

23. Details of all external signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. In this regard, signage shall be restricted to individual lettering affixed directly to the building, without backlighting or internal illumination.

Reason: In the interest of the amenities of the area / visual amenity.

24. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the planning authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with

an agreement empowering the planning authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to the Board for determination.

Reason: To ensure the satisfactory completion of the development.

25. The developer shall pay to the Planning Authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the Planning Authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the Planning Authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the Planning Authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Lorraine Dockery

Senior Planning Inspector

03rd March 2020

APPENDIX A:

Irish Aviation Authority

National Transport Authority

Irish Water

Thomas P Broughan

Transport Infrastructure Ireland

Tom Brabazon