



An
Bord
Pleanála

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

Inspector's Report ABP-306421-20

Strategic Housing Development

101 Apartments and associated site works.

Location

Lands adjacent to the grounds of Castle Park School, CastlePark Road, Dalkey, Co. Dublin.

Planning Authority

Dun Laoghaire Rathdown County Council.

Applicant

Curve Devco Limited.

Prescribed Bodies

1. Irish Water
2. Department of Culture, Heritage and the Gaeltacht
3. An Taisce
4. Heritage Council
5. An Chomhairle Ealaíonn

6. Fáilte Ireland
7. Dun Laoghaire Rathdown County
Childcare Committee.

Observer(s) 42 third party Submissions & 3
Prescribed Bodies (please refer to
Appendix 1).

Date of Site Inspection 20th & 23rd April 2020

Inspector Daire McDevitt

Contents

1.0 Introduction	4
2.0 Site Location and Description	4
3.0 Proposed Strategic Housing Development	4
4.0 Planning History.....	7
5.0 Section 5 Pre Application Consultation	9
6.0 Relevant Planning Policy	12
7.0 Third Party Submissions	23
8.0 Planning Authority Submission	28
9.0 Prescribed Bodies.....	33
10.0 Oral Hearing Request.....	37
11.0 EIA Preliminary Assessment.....	37
12.0 Assessment.....	38
13.0 Recommendation	67
14.0 Reasons and Considerations	68
15.0 Recommended Order.....	69

Appendix 1 List of Submissions

Appendix 2 Lis of documents submitted with the application

1.0 Introduction

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

2.0 Site Location and Description

- 2.1.1. The subject site, which has a stated area of c.1.3 hectares (c.1.27 hectares residential), consists of part of the grounds of Castle Park School in Dalkey, County Dublin. The proposed site is located to the north west of Dalkey and to the south east of Dublin Bay, just 500m from Bullock Harbour. The site is within 1km of Dalkey Dart Station and 1.2 km of Glenageary Dart Station and c.1.4km of Sandycove/Glastule Station.
- 2.1.2. The subject site forms part of the former grounds of the school property which is primarily covered by trees and dense woodland. A school overflow car park is located at the north-eastern corner of the site and this is accessed from the avenue to the school. Essentially the site is in separate possession to the school, however access / egress is to be through the protected school gateway. There is a fall across the site running in a north-west to south-east direction towards Hyde Road. The site also falls to the south-west corner. A central rock outcrop forms the highest point within the site.
- 2.1.3. Castle Park School buildings, playing fields and car parks are sited to the east and south-east. Detached housing in Castle Close is located to the north-east and an apartment development (Castle Park Residence) is located to the north-west. The rear gardens of detached residential properties on Hyde Road adjoin the site's western boundary and terraced and detached housing in Castlelands and Castlelands Grove are located to the south-west.

3.0 Proposed Strategic Housing Development

- 3.1.1. The proposed development consists of a new residential development of 101 no. apartments in a crescent shaped building 2 – 4 storeys, set out over a single basement, together with a single storey tenant amenity building, all on a site of c.

1.27 ha on lands within the grounds of Castle Park School, Castle Park Road, Dalkey, Co. Dublin. Access is proposed off the main avenue serving Castle Park School off Castlepark Road.

3.1.2 Table 1 Key Figures:

Site Area	1.3 Hectares (c.1.27 hectares developable)
No. of Residential Units	101 apartments in one block (c.9487sq.m)
Other	A single story amenity building/residents club (c.140sq.m)
Height of apartment blocks	2 to 4 storeys
Density (Nett)	79.5 units per hectare
Plot Ratio	0.76
Dual Aspect	56%
Part V	10 units
Public Open Space	c.4112sq.m (c.32.4 % of the overall site area).
Private Communal	c.5043sq.m

3.1.3 Table 2 Unit Mix:

Unit Type	Studio	1 bed	2 bed	Total
GFA	(39.8-43.4 sq.m)	(50.3-64.7sq.m)	(77.3 – 103sq.m)	
Apartment	11	26	64	101
% of total	11%	26%	63%	100%

3.1.4 Table 3: Parking Provision:

Car	80 (basement) (includes 2 car club spaces)
Bicycle	156 (including a covered store for 14 bikes at surface level)

- 3.1.5 No childcare facility is proposed. It is stated in the submitted documentation that a demand for c.17 places is likely to be generated by the proposed development. A Childcare Capacity Assessment included with the application concludes there is available capacity in the area to absorb the demand generated by the proposed development. Therefore a dedicated childcare facility is not required to form part of the proposed development.
- 3.1.6 In terms of site services, a new water connection to the public mains is proposed, and a foul sewer and storm water drainage pipe connection to Castle Park Road via Castle Close.
- 3.1.7 An Appropriate Assessment Screening Report was submitted with the application, which concluded that given the nature of the project and its potential relationship with European sites and their conservation objectives, as well as considered other plans and projects, and applying the precautionary principle, it is the professional opinion of the authors of the report that no potential for likely significant effects on any European sites and does not required an Appropriate Assessment or preparation of a Natura Impact Statement (NIS).
- 3.1.8 An Ecological Impact Assessment is submitted. This concluded that the habitat is assessed as being of local ecological importance for flora and fauna. Given the extent of Woodland removal (c. 55% of trees to be removed) the report concluded that the loss is likely to result in a significant negative effect at local geographic scale. Landscaping Plan submitted with the application include proposal to plant 14 semi-mature and c.70 mature as well as c.713sq.m of riparian planting along the drainage ditch. The report concludes that while this will enhance the biodiversity and ecological value of the woodland area being retained it will not mitigate the loss of the woodland habitat.
- 3.1.9 Letter of Consent from Dun Laoghaire Rathdown County Council dated 8th January 2020 relating to service connections via Castle Close.

- 3.1.10 A Material Contravention Statement submitted in relation to Residential Density, Unit Mix and Institutional Lands Objective.
- 3.1.11 Letter from Solicitor (plus enclosures) dated 28th November 2019 relating to Right of Way.
- 3.1.12 Legal Opinion relating the 'Institutional Lands' Objective.
- 3.1.13 Other documentation included and assessed is set out in Appendix 2 of this Report and is referred to in the main assessment.

4.0 Planning History

The most recent, relevant history is as follows:

PL 06D.249205 / Reg. Ref. D17A/0551

Permission was granted for a residential development consisting of 50 no. apartments: consisting of:

- 5 one-bedroom,
- 30 two-bedroom and
- 15 three-bedroom units.

They are provided in eight blocks connected by seven glazed atria. The blocks are provided to a height of 3-4 storeys over a basement level. The development includes the provision of 80 car parking spaces at basement level, four drop-off car spaces at surface level and 60 cycle spaces at basement and surface level. Each of the apartments would have a balcony/terrace space. The development is served by public open space, a children's play area and garden pavilion. Vehicular access is provided via the existing avenue serving Castle Park School. A pedestrian/cycle access is also proposed connecting to the adjoining estate of Castle Close. The existing gate to the school from Castlelands would be used for emergency/fire tender access purposes, for pedestrian access and for temporary construction access. (development modified on appeal to **49** Apartments).

P.A. Ref. D17A/0016

Permission was granted for an extension to a school playground.

ABP Ref. PL 06D.247159

Permission was refused by the Board for an overflow car park to serve the school.

P.A. D14A/0501

Permission was refused for 15 houses.

P.A. D11A/0570

Permission was granted for the installation of new entrance gates and signage.

P.A. D08A/0043

Permission was granted for the retention and completion of modifications to the redevelopment of the school.

ABP Ref. PL 06D.227213

Permission was refused by the Board for a residential development of 47 units.

P.A. Ref. D06A/0406

Permission was refused for a headmaster's house to replace the existing headmaster's house.

ABP Ref. PL 06D.215646

Permission was refused by the Board for 81 residential units.

ABP Ref. PL 06D.215520

Permission was granted for the redevelopment and extension of the existing school.

Strategic Housing Development Applications in the vicinity:

ABP 306626-20 refers to a current application for 105 apartments at Charleville, Harbour Road, Dalkey.

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 30th September 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 with the consultation request under section 5(5) of the Act constituted a reasonable basis for an application for strategic housing development to An Bord Pleanála. The applicant was advised that the documentation submitted with the consultation request under section 5(5) of the Act constituted a reasonable basis for an application for strategic housing development.

5.2 The following items of specific information were outlined that should be submitted with an application:

1. The clear identification on submitted floor plans at application stage of those apartments considered by the applicant to constitute dual aspect having regard to the provisions of 'Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities' (2018).
2. A Construction Environmental Management Plan (CEMP) that addresses, inter alia, tree protection during construction phase and an Arborist Assessment required clearly indicating:
 - monitoring of tree protection and mitigation measures;
 - adherence to tree protection measures;
 - supervision of works;
 - post construction assessment and measures to promote / assess regular health and condition of trees.
3. In the event that a childcare facility is not proposed at application stage a statement of rationale for its omission, by way of, assessment and report on demographic profile of the area, including analysis of childcare capacity / services in the immediate area.

4. A Shadow Impact Assessment of the development on the wider area.
5. Clarification at application stage regarding connection to water and drainage infrastructure having regard to issues raised in the Irish Water submission dated 29th May 2019.
6. A response to matters raised within the PA Opinion and Appended County Council Department comments submitted to ABP on the 16th September 2019.
7. A map indicating walking distances to the nearest Dart Stations in the area.
8. Public lighting strategy and plan for the site that addresses, inter alia, ecological protection and health and safety for residents.

5.3 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. The applicants have attempted to address Points 1-8 of the specific information to be submitted with an application. Points of note include:

1. 56% of the units are dual aspect (56 units). There are no north facing single aspect units.
2. Construction Management Plan submitted. Tree Protection Measures set out, the appointment of arborist to supervise the implementation of the measures. Ecological Impact Assessment and mitigation measures included with the application. Construction, Noise and Vibration Assessment with relative measures submitted.

3. Childcare Needs Assessment provides an evidence based assessment which demonstrates that the proposed development will not generate sufficient demand to include a childcare facility as part of the development proposal, and how existing childcare facilities within the wider area can accommodate future residents of the scheme.
4. Sunlight, Daylight and Shadow Assessment submitted with the application. It noted that the area on which this development is proposed is currently a dense area of tall mature woodland and scrub which itself casts shadow towards the neighbouring properties albeit with some permeability.
5. The Drainage Design Report submitted with the application clearly sets out that the network extension has been provided and agreed with Irish Water.

It is proposed to connect to the watermain on Castlelands Road with a new 150mm diameter water main to service the site. A proposed watermain layout drawing re. D1521-D2. This layout has been agreed with Irish Water and a letter of design acceptance along with a copy of the pre-connection enquiry and a confirmation of feasibility letter area included in Appendix F.

6. Response to issues raised in the PA Opinion submitted. This included inter alia :
 - Traffic and Transportation Plan, including a Mobility Management Plan submitted and drawings.
 - Drainage Design Report and Storm Water Audit submitted and drawings.
 - Site Lighting Report.
 - Response to the conservation department.

- Building Height, Design & Massing, External Finishes & Materials addressed.
- Protection of Adjoining Residential Amenities.
- Childcare, TIC, Institutional Lands Objective.

7. Map submitted showing walking distance to 3 DART stations in the vicinity.

8. Public Lighting Strategy submitted.

Material Contravention Statement was submitted. This is dealt with in more detail in section 6.6 of this report.

6.0 Relevant Planning Policy

6.1 National Planning Framework

Chapter 4 of the Framework addresses the issue of ‘making stronger urban places’ and sets out a range of objectives which it is considered will assist in achieving same. National Policy Objective 4 sets out to ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being. National Policy Objective 13 provides that in urban areas, planning and related standards, including in particular building height and car parking, will be based on performance criteria that seek to achieve well designed high quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.

Objective 57 sets out to enhance water quality and resource management, this includes the requirement to ensure that flood risk management informs place making by avoiding inappropriate development in areas at risk of flooding in accordance with The Planning System and Flood Risk Management Guidelines for Planning Authorities.

6.2 Section 28 Ministerial Guidelines

Having considered the nature of the proposal, the receiving environment, the documentation on file, including the submissions from the planning authority, I am of the opinion that the directly relevant Section 28 Ministerial Guidelines are:

- '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' (2018)
- 'Design Manual for Urban Roads and Streets' (2013)
- 'The Planning System and Flood Risk Management' (including the associated 'Technical Appendices') (2009)
- 'Architectural Heritage Protection- Guidelines for Planning Authorities
- Urban Development and Building Heights, Guidelines for Planning Authorities (2018)

6.3 Regional

Eastern & Midland Regional Assembly Regional Spatial & Economic Strategy (RSES) 2019-2031

The RSES including the **Dublin Metropolitan Area Strategic Plan (MASP)** was adopted on the 3rd of May 2019.

Dalkey is located within the area covered by MASP which seeks to focus development on large scale strategic sites and on the redevelopment of underutilised lands, based on key transport corridors that will deliver significant development in an integrated and sustainable manner.

The site is located within a 'strategic development corridor' of Dublin as it is within North-South Corridor centred around the DART facility.

6.4 Local

Dun Laoghaire Rathdown County Development Plan 2016-2022

The site is zoned Objective 'A' in the development plan, 'to protect and / or improve residential amenity'. Residential development is 'permitted in principle' under this zoning objective.

The site has specific local objectives relating to it:

- It is designated 'Institutional Lands' with the objective 'To protect and/or improve institutional use in open lands'.
- There are also objectives 'To protect and preserve Trees and Woodlands'.

Section 2.1.3.5

RES3: refers to the density requirements for the county. (full wording is set out in section 6.6 of this report which contains a summary of the applicant's Material Contravention Statement).

RES7 refers to overall housing mix (type and tenure) within the county.

RES5 refers to institutional lands and their redevelopment (full wording is set out in section 6.6 of this report which contains a summary of the applicant's Material Contravention Statement).

RES 8 refers to the provision of social housing.

Architectural Heritage

As the site adjoins Protected Structures, **Section 8.2.11.2 (iii)** is of note and refers development within proximity to a Protected Structure.

The relevant structures are:

- Entrance gateway to Castlepark School (RPS Ref. 1405)
- Castlepark School (RPS Ref. 1405).

Relevant Development Management Standards

Of particular relevance is **Policy UD1** as this is referred to in the Planning Authority's first reason for refusal.

Section 8.1.1.1. Urban Design Policy UD1 sets out that all development is of high quality design that assists in promoting a 'sense of place'. The promotion of the guidance principles set out in the 'Urban Design Manual - A Best Practice Guide' (2009) and in the 'Design Manual for Urban Roads and Streets' (2013).

Section 8.2.3.3 refers to **apartment developments** and standards required in relation to (i) design, (ii) dual aspect, (iii) mix of units, (iv) separation between blocks), (v) internal storage, (vi) penthouse development, (vii) minimum floor areas, (viii) public, private and communal open space standards and (ix) play facilities.

Section 8.2.3.3 (iii) refers to unit mix within schemes. Where more than 30 units are proposed, a scheme should generally comprise of no more than 20% 1 bed units, and a minimum of 20% of units over 80 sq.m.

Section 8.2.11.2 refers to development in Proximity to a Protected Structure.

Section 8.2.3.4 (ix) refers to Institutional lands.

Section 8.2.4 Sustainable Travel and Transport

Section 8.2.4.5 refers to carparking standards for apartments.

Section 8.2.4.9 refers to the use of electronic gates.

Section 8.2.4.10 refers to underground carparks.

Section 8.2.8 Open Space and Recreation

Section 8.2.8.4 (iv) refers to private open space requirements for apartments

Section 8.2.8.5 refers to play facilities for apartments.

8.2.3.4 (xi) refer to Institutional Lands sets out that where no demand for an alternative institutional use is evident or foreseen, the Council may permit alternative uses subject to the area's zoning objectives and the open character of the lands being retained. The Plan notes that there are still a number of large institutions in the established suburbs of the County which may be subject to redevelopment pressures in the coming years. The principal aims of any eventual redevelopment of these lands will be to achieve a sustainable amount of development while ensuring the essential setting of the lands and the integrity of the main buildings are retained.

6.5 Applicant's Statement of Consistency

A Statement of Consistency with local and national policy has been submitted with the application, as per Section 8(1)(iv) of the Act of 2016.

6.6 Material Contravention Statement

6.6.1 The applicants have submitted a statement of Material Contravention in accordance with Section of 8(1)(iv) of the Planning and Development (Housing) and Residential Tenancies Act 2016. The applicant has been advertised as a contravention of the development plan.

Section 37(2)(b) of the Act of 2000 (as amended) states that where a proposed development materially contravenes the Development Plan, the Board may grant permission where it considers that:

(i) the proposed development is of strategic or national importance,

(ii) there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned,

or

(iii) permission for the proposed development should be granted having regard to regional spatial and economic strategy for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government,

or

(iv) permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.

6.6.2 **Section 2.1.3.3**

This Section sets out the desired densities for Residential development in the County.

Policy RES3: Residential Density

It is Council policy to promote higher residential densities provided that proposal ensure a balance between the reasonable protection of existing residential amenities and the established character of areas, with the need to provide for sustainable residential development it is Council Policy to have regard to the policies and objectives contained in the following Guidelines:

- *Sustainable Residential Development in Urban Areas (DoEHLG 2009).*
- *Urban Design Manual – A Best Practice Guide (DoEHLG 2009).*
- *Quality Housing for Sustainable Communities (DoEHLG 2007).*
- *Irish Design Manual for Urban Roads and Streets (DTToS and DoECLG 2013).*
- *National Climate Change Adaptation Framework – Building Resilience to Climate Change (DoECLG 2013).*

Section 8.2.3.2

In general the number of dwellings to be provide on a site should be determined with reference to the Government Guidelines document: 'Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities' (2009). As a general principle, and on the grounds of sustainability, the objective is to optimize the density of development in response to type of site, location and accessibility to public transport. However, the overriding concern should be the quality of the proposed residential environment to be created and higher densities will only be acceptable if the criteria which contribute to this environment are satisfied. Higher residential densities should have regard to surrounding dwellings and should be achieved in tandem with the protection of the amenity of the future residents of the proposed development (Refer also to Policy RES3 in Section 2.1.3.3).

In Dun Laoghaire-Rathdown, apart from in exceptional circumstances (eg where an LAP has identified sites where lower densities may be considered or in sites where mature tree coverage prevents minimum densities being achieved across the entire site) minimum residential densities should be 35 dwellings per hectares. Significant parts of existing built up areas of the County are, however, readily accessible to public transport corridors – QBCs, Luas, DART. In these circumstances Government Guidance is to provide densities at higher than 50 dwellings per hectare. The Council acknowledges the 'kickstart' incremental development approach as outlined in the DoECLG and the NTA study @Planning and Development of Large Scale, Rail Focused Residential Areas in Dublin' (2013) in relation to Sandyford, Cherrywood, Stepside and Carrickmines. The purpose of the 'Kickstart' Approach is not the be used to achieve lower densities in a scheme but rather to ensure eventual overall delivery of higher densities in order to support public transport modes (Refer also to policy RES£, Section 2.1.3.3).

Section 8.2.3.3

This Section sets out the requirement for unit mix in apartment developments in the County.

Apartment developments should provide a mix of units to cater for different size households, such that larger schemes over 30 units should generally comprise of no more than 20% 1 bed units and a minimum of 20% of units over 80sq.m. Schemes with less than 30 apartments will be assessed on a case by case basis according to their unit numbers, configuration and location but should generally accord to a percentage ratio of 40/40/20% mix for 1/2/3 bedroom units respectively. Some one-bed or two-bed units could be provided on the ground floor to potentially cater for elderly people 'downsizing' from more traditional housing types and should, where possible, have direct access onto public open spaces.

CSO results from the 2011 Census indicate that 55% of all private households are composed of one or two persons in the County, compared with 53% Nationally. These 2011 results also indicate that 62% of private households in the County were residing in detached or semi-detached houses with 19.4% in a flat or apartment.

Institutional Lands Objective

In addition to the lands being zoned residential, there is an 'institutional' objective on these residential zoned lands where the site is located.

There are still a number of large institutions in the established suburbs of the County which may be subject to redevelopment pressures in the coming years. The principle aims of any eventual redevelopment of these lands will be to achieve a sustainable amount of development while ensuring the essential setting of the lands and the integrity of the main buildings are retained. In order to promote a high standards of development a comprehensive Masterplan should accompany a planning application for institutional lands. Such a masterplan must adequately take account of the built heritage and natural assets of a site and established recreational use patterns. Public access to all or some of the lands may be required. Every planning application lodged on institutional lands shall clearly demonstrate how they conform with the agreed masterplan for the overall site. Should any proposed development deviate from the agreed masterplan then a revised masterplan shall be agreed with the planning authority.

6.6.3 It is put forward that the proposed development does not materially contravene Section 2.1.3.3 Policy RES3 (Residential Density), Section 8.2.3.2 (Residential Density), Section 8.2.3.3 (Dwelling mix) and Institutional Lands Objective requiring a Masterplan as set out in the Dun Laoghaire Rathdown County Development Plan 2016-2022. And it is respectfully requested that An Bord Pleanála have regard to the justification set out in this report for a material contravention of the Dun Laoghaire Rathdown County Development Plan 2016-2022 in terms of the density proposed, housing mix, the institutional lands objective. This request is made on the basis that:

- The development is of strategic and national importance.
- The site is in close proximity to existing or planned high frequency public quality transport routes.
- The proposal is consistent with the policies and intentions of current Government policies in the form of the National Planning Framework, it is consistent with the RESS objectives for Dublin. And is in accordance with Ministerial Guidelines due to its density, height, use of an underutilised prime site and well-designed units within a compact form.

6.6.4 Justification for Material Contravention as set out by the applicants:

Residential Density:

- The proposed density of 79.5 units per hectare is considered justified being given its location in the well-established suburb of Dalkey, proximity to available transport locations in an area where existing social and community infrastructure. It is therefore considered that the subject site is an appropriate location for increased density to support the objectives of the NPF. The density is justified being in compliance with Ministerial Guidelines, The NPF and the RSES for the Eastern and Midland Region.
- The design of the current proposal is centred around the already permitted built form of this site (ABP PL.06D.249205). As such the density of development now being proposed is contained within a built envelope that is largely the same as that already permitted. On side of the building is adjusted by a few metres in places to accommodate increase density.

- The density has been arrived at by a design-led approach, which is advocated through the National Guidelines. It is considered that, given the constrained infill nature of the site, the specific wooded characteristic presented on site bounded by existing residential development to the south-west, west and north, the proposed density of 79.5 units per hectare generally within the permitted built form on site, represents a careful balance of preserving the natural amenities and achieving an appropriate residential development in accordance with new National and Regional Guidelines, which provide for increased density in existing built up areas.

Unit Mix:

- The Unit Mix set out in the Dun Laoghaire Rathdown County Development Plan 2016-2022 is superseded by SPPR1 of the 2018 Apartment Guidelines.
- The proposed development is compliant with SPPR1 as:
 - No more than 50% of the proposed units are 1 bed or studio type units.
 - Studio units amount to 11% of the total number and are therefore below the 25% maximum standard set out in SPPR1.
 - Over 50% of the units are two bed ad range in size between 73-84sq.m.
- Furthermore, the unit mix taken into consideration with the surrounding house types in the Dalkey-Bullock DED offer a good unit mix.
- The proposed development exceeds the Development Plan requirements with regard to unit mix, and could thus be considered to constitute a material contravention. Notwithstanding this the 2018 Apartment Guidelines contain 9 no. SPPRs, which the Planning Authorities and An Bord Pleanála are required to apply in carrying out their functions, and which take precedent over any conflicting policies and objectives of the relevant Development Plan.

Institutional Lands Objective:

- It is contended that as the lands in question had been sold to the Applicant several years ago, prior to the making of the current Development Plan, and that permission had been granted on the site since that occurred. That there is not necessity for a masterplan to be prepared. Furthermore, the particular proposal seeks to utilise the permitted development envelope that has been deemed acceptable in the past in terms of its relationship with the remainder of the institutional lands.
- The issue of the masterplan was raised and addressed by the Planning Inspector under PL.06D.249205. In making the decision to Grant permission at the time, the Board accepted the Inspectors recommendation.
- The applicant puts forward that there has been no change in circumstances to warrant a requirement for a masterplan under the current application.
- The beneficial interest in the subject site was transferred to the original purchasers to the site in 2009 and subsequently transferred to the applicant's in 2016. The school has had no ability to development the subject site since 2009 and any development aspirations it might have had in respect of these lands are not capable of implementation.
- The subject site is not available for use by the school ad cannot be considered as part of the school landholding for future development proposal or master planning associated with the school.
- Legal Opinion submitted with the application. This notes that the school has divested itself of any interest in the application site and it is Senior Counsel's opinion that it can no longer be regarded as 'Institutional site' or a site in institutional use having regard to the ordinary meaning of these expressions.
- Section 2.1.3.5 Policy RES5 Institutional Lands. The applicants have set out that the site can no longer be considered as an 'institutional site'. Notwithstanding the woodland character is being retained and c. 33% of the site area is set aside for public open space.

- Section 8.2.3.4 (xi) Institutional Lands. The applicants have set out that the site can no longer be considered as an 'institutional site'.
- The Planning history of the site sets out planning precedent which confirms that residential development is acceptable and it would not compromise the future operation or expansion of the school.

6.6.5 I note the Material Contravention statement and the arguments put forward by the applicant in favour of the development. I conclude that the Board can grant permission for the development having regard to the 2018 Sustainable Urban Housing: Design Standards for New Apartments and the 2009 Sustainable Urban Housing Guidelines. I am satisfied that the Board is not precluded from granting permission in this instance with regard to the provisions of section 37(2) (b) (iii).

7.0 Third Party Submissions

7.1 42 third party submissions have been received, there is a significant degree of overlap and reiteration of issues raised throughout the submissions. I therefore propose to summarise them by issue rather than individually. Appendix 1 contains a list of submissions.

7.2 The main issues are summarised as follows:

Policy:

- Contrary to Land Use Zoning 'A' which seeks to protect and/or improve residential amenities.
- Materially contravenes Policy RES3 (density). No justification to jump from 49 to 101 units on this site. It is not close to public transport.
- Materially Contravenes the Development Plan Building Height requirements.
- Does not comply with policy RES7 (unit mix)

- Does not comply with policies/objectives for the development of institutional lands.
- Does not comply with tree protection objective.

Design, Height & Layout:

- Inappropriate scale, mass, bulk and height.
- Design has no regard the heritage of Dalkey village.
- Inappropriate for the setting and context.
- Incongruous and overly prominent.
- Overdevelopment of the site.
- Too many single aspect units.
- No requirement for Studio units in the area
- Visually incongruous and out of keeping with its environs.

Residential Amenities

- Overshadowing.
- Overlooking.
- Loss of light.
- Noise and Light Pollution.
- Overbearing impact.

- Loss of outlook.
- Loss of parkland views.
- Potential trespassing if a gate connects the development to Castle Close.
- Pavilion building, path and play area close to the western woodlands will detract from the amenities of the residents of Caslepark Residences, in particular Block B.

Traffic & Caparking

- Congestion arising from additional traffic generated by the development.
- Use of Castlelands Lane cul-de-sac for construction traffic will result in a conflict between pedestrians, construction traffic and other car users.
- Necessity for a pedestrian link/cycle link via Castle Close.
- Access via Castle Close and Castlelands is not acceptable.
- The use of the existing entrance to Castlepark School would constitute a traffic hazard as it is substandard and cannot accommodate additional traffic that the proposed development will generate.
- Local road infrastructure does not have the capacity to accommodate the additional traffic from the proposed development.
- Over flow of parking onto adjoining residential roads will further exacerbate congestion in the area,
- Inadequate carparking is proposed for the size of the apartment scheme.
- Traffic hazard from construction traffic.

- Loss of School overflow carpark will further add to congestion and peak times associated with the school.
- Query the methodology and data used in the TTA.

Impact on CastlePark School:

- Design, height and prominence of the apartment block will detract from the setting of Castlepark School.
- Overlooking of the school grounds.
- Traffic safety concerns.

Loss of Woodland and habitat.

- Excessive removal of trees, loss of 197 trees.
- Loss of wildlife and habitats (bird, bat, badger and fox)
- Loss of important ecosystem.
- Loss of natural heritage.

Drainage

- The Southwestern portion of the site is prone to flooding. The stream is blocked with stagnant water for long periods of time. The Castlepark Residences apartments suffered serious flood damage to basement in the past.
- Drainage concerns.
- Water displacement due to rock removal.

Other:

- Discrepancies in the information submitted relating to whether 3 bed unit are provided within the scheme.
- Concern it will be a 'Build to Rent' Scheme.
- Devaluation of adjoining properties.
- No justification for a resident's member's club building.
- Amount of granite to be removed from the site differs from that outlined previously but the size of the basement car park remains the same.
- Archaeology.
- Noise/Vibrations/Use of chemical for clearing granite.
- Concern explosives will be used to remove rock.
- Trucks associated with granite removal (noise, dust, traffic hazard)
- Housing mix is inappropriate for the area.
- Planning history of refusal on the site was ignored.
- No need for a play area as the development is aimed at retirees and downsizers.
- Does not comply with Childcare Guidelines.
- Cumulative impact of permitted residential development in the area is not acceptable and will have a detrimental impact on Dalkey.

- The current proposal is a lower quality scheme than one currently permitted on site.
- Arborist survey includes trees outside the red boundary.

I have considered all of the documentation included in the third party submissions.

8.0 Planning Authority Submission

8.1 In compliance with section 8(5)(a) of the 2016 Act the Planning Authority, Fingal County Council, has submitted a report of its Chief Executive Officer in relation to the proposal. This was received by An Bord Pleanála on the 12th March 2020. It summarises observer comments as per section 8(5) (a) (i) and the views of the relevant elected members at the Area Committee Meeting of the 3rd February 2020. The planning and technical analysis in accordance with the requirements of section 8(5)(a)(ii) and 8(5)(b)(i) may be summarised as follows:

Information submitted by the Planning Authority included details relating to site description, proposal, pre-application consultations, planning history, interdepartmental reports and consultees and a summary of representations received.

8.2 Planning Assessment:

The main issues raised are summarised as follows:

Principle of Development:

The principle of a residential infill development at this site is established.

The proposal for 101 units on serviced lands within an established suburban area, comprising high density development within c. 1.4km of 3 Dart Station and bus service.

The extant permission (D17A/0551, ABP PL.06D.249205) is also noted. The overall form of the current proposal remains largely as permitted under PL.06D.249205 with the 101 apartments accommodated within a building of almost identical footprint of that permitted through a variation of the overall unit mix (omission of 3 bed and inclusion of studio units) and infilling of the western sections of formerly full height glazed atria to accommodate residential floor space.

Institutional Lands:

Reference to the extant permission and legal opinion submitted with the application.

Density:

Site Area of c.1.3hectares with a residential development site area of c. 1.27 hectares. The proximity to Dart Station and Bus services is noted. It is considered that the proposed density may be considered acceptable by the Board in line with the provision of the Sustainable Residential Development in Urban Areas – Cities, Towns and Villages (2009) regarding Institutional lands which includes increased densities in selected parts of said lands of up to 70 units per hectare.

Residential Accommodation and Mix:

The proposed mix accords with the requirements to the Sustainable Urban Housing – Design Standards for New Apartments Guidelines for Planning Authorities (2018).

Having regard to the existing residential stock and typology in the wider area of the site, the proposed development is also considered to generally accord with the provisions of the Dun Laoghaire Rathdown County Development Plan 2016-2022 with regard to residential mix.

Apartment Standards and Amenities:

The proposed development accords with the requirements to the Sustainable Urban Housing – Design Standards for New Apartments Guidelines for Planning Authorities (2018).

Building Height:

The development ranges in height from 2 to 4 storeys. The overall form remain largely as permitted under PL.06D.249205 with no change to the maximum ridge height permitted.

The Building height generally accords with the provisions of the Dun Laoghaire Rathdown County Development Plan 2016-2022 and national policy regarding building heights.

Design, Scale, Form and Materials/Finishes:

It is noted that while the development as currently proposed includes the partial infilling of fully glazed atria areas in the development of similar form previously approved under PL.06D.249205, the overall form of the development as currently proposed remains largely as permitted under PL.06D.249205, with no change to the maximum ridge height permitted.

It is considered that, overall the proposed residential scheme would not adversely impact on the visual amenities of the receiving environment. The finishes of the proposed apartment blocks would comprise light and dark grey brick and glass balustrade detail to balcony/terrace areas, which are also considered acceptable with regard to the visual amenity of the area.

The proposed development complies with the Urban Design Manual- Best Practice Guide (2009) and would integrate satisfactorily with the receiving environment in the vicinity of the subject site and wider area.

Sunlight and Day light Access:

Sunlight, Daylight & Shadow Assessment and Shadow plots noted.

It is considered that the proposed development would not have a significant adverse impact on the amenities of existing adjacent properties by reason of overshadowing.

Open Space Provision, Public Realm and Permeability:

c.4112 sq.m (c.32.4%) of public open space is proposed and the open woodland character of the site will be retained. The quantum of open space provision accords with the requirements of the current Dun Laoghaire Rathdown County Development Plan.

The proposed communal amenity spaces exceed the requirements of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2018) for communal amenity space provision.

Parks and Landscaping recommended conditions should be attached in the event of a grant of permission.

Impact on Adjoining Amenities:

The development would be stepped in height and would benefit from the existing woodland planting on with site with regard to screening.

Reference to the extant permission on site.

In the event of a grant of permission a condition should be attached requiring the retention and maintenance of existing and proposed landscaping on site to ensure natural screening.

Conservation:

The impact of the proposed development on the Protected Structure remain relatively unchanged from that of the permitted development on site under PL.06D.249205. Building envelope and position remain largely the same.

Archaeology:

The submission by the Department of Culture, Heritage and The Gaeltacht (14/02/20) is noted.

Childcare Facilities:

Having regard to the overall number of apartment units proposed, the location of the subject site proximate to an existing operational school property, it is considered that a childcare facility should be provided as part of the subject site.

Drainage:

Refers to the Drainage Planning report.

Transportation, Parking and Access:

Refers to the Transportation Planning report.

Public Lighting:

Refers to the Public Lighting report.

Refuse Storage, Waste Management and Construction Details:

Refers to Environmental Health Officer Reports and the Environment Section Report.

Part V:

Refers to the Housing Department Report.

EIA/AA and Ecology:

The competent authority responsible is An Bord Pleanála.

A summary of the Third Party submissions and commentary on same is included in the Planning Assessment.

A summary of the Prescribed Bodies submissions and commentary on same is included in the Planning Assessment.

Recommendation

Grant permission subject to 28 suggested conditions and 8 notes.

8.3 Summary of Inter-departmental Reports

Appendix A:

Drainage Planning – No objections subject to conditions relating to general drainage and SSFRA measures.

Transportation Planning – No objections subject to conditions. This includes a condition requiring the provision of 111 carparking spaces.

Public Lighting – The Lighting design as proposed is not acceptable.

Environment Section – Comments and conditions relation to the CDWMP submitted is not acceptable, revised CDWMP to be submitted and agreed. Details and Methodology for granite removal to be agreed. Operations Waste management Plan to be submitted. Domestic Waste Management Proposals to be conditioned.

Environmental Health Officer – No objection subject to general conditions.

Environmental Health Officer (Air & Noise Unit) – No objection subject to general conditions.

Housing Department – Condition to be attached relating to the provision of Part V to any grant of permission.

Parks and Landscaping Services – No objection subject to general conditions relating to Trees, the requirement for a Tree Bond. Provision of play and recreational areas. Landscaping. Site Boundaries.

Appendix B outlining Development Contributions is also included with the Chief Executive's Report

9.0 Prescribed Bodies

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

- Irish Water
- Department of Culture, Heritage and the Gaeltacht
- An Taisce
- Heritage Council
- An Chomhairle Ealaíonn
- Fáilte Ireland

- Dun Laoghaire Rathdown County Childcare Committee.

Three of the above Prescribed Bodies responded and the following is a brief summary of the points raised. Reference to more pertinent issues is made within the main assessment.

9.1.2 Department of Culture, Heritage and the Gaeltacht:

This is summarised as follows:

Archaeology:

Having examined the Archaeological Impact Assessment submitted with the application. The assessment was undertaken as part of the pre SHD assessment as recommended by the National Monuments Section of the DCHG. The report describes the results of archaeological testing at the site. There were no archaeological features or materials found during testing. Having considered the assessment report and reviewed the archaeological context of this site, the Department recommends that no further monitoring is required.

Nature Conservation:

Bats:

The removal of c. 55% of the trees is noted. Numerous trees have been identified as having potential roost features for bat species. Bat Species are protected under the Wildlife Act, 1976, as amended as well under Annex IV of the Habitats Directive (92/43/EEC). In addition, disturbance/displacement effects may arise from the introduction of artificial lighting to areas of previously unlit woodland. As well as impacting on foraging and commuting of bat species, artificial lighting can cause decline in insect population. Measures are recommended to be attached to any grant of permission to mitigate the impact to bat species.

Birds:

Due to the volume of trees to be removed a condition relating to the periods for vegetation clearance is recommended.

Badgers:

Prior to the commencement of development a Badger Conservation Plan should be submitted to DLRCC detailing plans to close up and remove the presumed disused sett without harming a protected species. Additional protection measures to compensate/mitigate for loss of presumed disused sett and foraging area must also be outlined.

9.1.3 Irish Water

This is summarised as follows:

A design statement of acceptance issued to the applicant in line with the confirmation of feasibility for 105 units. In order to facilitate the proposed connection at the Premises, the water and waste water networks have to be extended as follows:

Water:

The connection point for the proposed development should be made to the existing 150mm ID uPVC main in Castlelands Lane. In order to facilitate this connection the network must be extended with approximately 50m via private land. The applicant is required to obtain the appropriate permission from the landowner in favour of Irish Water over this infrastructure ensuring unrestricted access should future maintenance be required. The cost of the water network extension will be borne by the applicant.

Wastewater:

The connection point for the proposed development should be made to the existing 850mm ID concrete sewer in Castlepark Road. In order to facilitate this connection the network must be extended approx.160m. Any consents will be agreed by the applicant. Appropriate wayleaves in favour of Irish Water over the infrastructure will be required to ensure unrestricted access should future maintenance be required.

Recommended condition set out in the submission that should be included in the event of a grant of permission.

9.1.4 An Taisce

This is summarised as follows:

Concerns outlined relating to the removal of a significant area of woodland which is a key area of urban biodiversity. This is recognised in the ecological report accompanying the application which recognised the woodland as being of higher value local ecological importance.

Reference to Policy LHB 23 in the Dun Laoghaire Rathdown County Development Plan 2016-2022 relating to Non-Designated Areas of Biodiversity Importance. And Policy OSR7 relating to Trees and Woodland.

Inadequate Bird Surveying. It is considered that the full impacts of the proposed development on the ecology of the existing woodland, particularly on bird species, cannot be adequately assessed on the basis of the date provided. Given the extent of the trees to be removed and the high local ecological importance of the woodland, it is considered that full, up to date, breeding bird surveys are required.

10.0 Oral Hearing Request

None requested

11.0 EIA Preliminary Assessment

11.1 The application was submitted on after the 1st of September 2018 and therefore after the commencement of the European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018.

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

- Construction of more than 500 dwelling units
- Urban developments which would involve an area greater than 2ha in the case of a business district, 10ha in the case of other parts of a built up area and 20ha elsewhere,

(In this paragraph 'business district' means a district within a city or town in which the predominant land use is retail or commercial use).

11.3 The proposed development is for 101 residential units, a pavilion and ancillary services on a site within an overall area of c.1.3 hectares. It is therefore considered that it does not fall within the above classes of development and does not require a mandatory EIA.

11.4 As per section 172(1)(b) of the Planning and Development Act 2000 (as amended), EIA is required for applications for developments that are of a class specified in Part 1 or 2 of Schedule 5 of the 2001 Regulations but are sub-threshold where the Board determines that the proposed development is likely to have a significant effect on the environment. For all sub-threshold developments listed in Schedule 5 Part 2, where no EIAR is submitted or an EIA determination requested, a screening determination is required to be undertaken by the Competent Authority unless, on preliminary examination it can be concluded that there is no real likelihood of significant effect on the environment. This preliminary examination has been carried out and concludes that, based on the nature, size and location of the development, there is no real likelihood of significant effect on the environment. The need for EIA is therefore precluded and a screening determination is not required.

12.0 Assessment

The Board has received a planning application for a housing scheme under section 4(1) of the Planning and Development (Housing) and Residential Tenancies Act 2016. My assessment focuses on the relevant section 28 guidelines. I examine the proposed development in the context of the statutory development plan and the local plan. In addition, the assessment considers and addresses issues raised by the observations on file, under relevant headings.

I refer the Board to the extant permission on this site under D17A/0551 (ABP Ref. No. 249205) whereby permission was granted in 2018 for 49 apartments). Many elements of the proposed development are similar including broadly the overall site layout, building design, form and height, The main differences between that previous permitted development and the current application relate number of units (increase from 49 to 101), density (increased from 38.5 uph to 79.5 uph).

The main issues are:

- Principle, Quantum and Density of Development
- Design and Layout

- Residential Amenities
- Traffic and Transportation
- Loss of Woodland Setting.
- Drainage.
- Part V.
- Other
- Biodiversity.
- Appropriate Assessment.

12.1 Principle, Quantum and Density of Development

12.1.1 The principle of a residential development on the application site was considered acceptable and established by the Board under PA Ref. 17A/0551ABP Ref. PL.06D.249205 in 2018 which permitted 49 units (apartments) on this site.

12.1.2 I am of the opinion that given its zoning objectives, the delivery of residential development on this prime, infill, underutilised site, in a compact form comprising well-designed, higher density units would be consistent with policies and intended outcomes of the NPF and Rebuilding Ireland – The Government’s Action Plan on Housing and Homelessness. The site is considered to be located in a central and accessible location within Dalkey, it is within easy walking distance of good quality public transport in an existing serviced area. The County’s Settlement Strategy seeks to gain maximum benefit from existing transport, social and community infrastructure through the continued consolidation of the city and its suburbs. The proposal serves to widen the housing mix within the general area, and, if permitted would improve the extent to which it meets the various needs of the community. The proposed development is considered acceptable in principle.

- 12.1.3 The applicant has set out their argument for material contravention of the current Development Plan in section 6.6 of this report. The material Contravention statement refers to residential density, residential mix and compliance with Institutional land objectives and policies. The contravention does not relate to the zoning of the land, so the Bord may grant permission by applying section 37(2)(b) of the Planning and Development Act 2000. Under this legislation, 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. I also note section 5(6) of the Planning and Development (Housing) and Residential Tenancies Act, 2016, which relates to material contravention of the development plan, other than in relation to the zoning of land.
- 12.1.4 The zoning objective for the subject site is 'Objective A' residentially zoned lands and the policy in relation to residential development in such areas has been clearly set out in the operative Development Plan, which is clear, concise and lacks ambiguity. The operative Development Plan is relatively recent, being adopted in 2016 and there have been no pattern of developments for reference in the area since its adoption.
- 12.1.5 Regarding whether the proposed development is in national/strategic interest or does it conflict with national/regional policy. The proposal is located on a infill site, within 1.4km of three DART stations. The Sustainable Residential Development in Urban Areas Guidelines recognise that where such sites exist, in particular close to existing or future public transport corridors, the opportunity for their redevelopment to higher densities, subject to safeguards, should be promoted. The site is also located within a short walking distance of the facilities and services on offer within Dalkey village. Having regard to the above, the proposal is considered to be in keeping with the general principles of sustainable residential development, as set out in section 1.9 of the aforementioned guidelines referenced above and as a result is considered to be in accordance with national policy in this regard.

- 12.1.6 I am of the opinion that given its residential zoning, the delivery of residential development on this prime, infill, underutilised site, in a compact form comprising well-designed, higher density units would be consistent with policies and intended outcomes of the NPF and Rebuilding Ireland – The Government’s Action Plan on Housing and Homelessness. The site is considered to be located in a central and accessible location, it is within easy walking distance of good quality public transport in an existing serviced area. The proposal serves to widen the housing mix within the general area, and would improve the extent to which it meets the various housing needs of the community. The proposed development has been lodged under the strategic housing process, which aims to fast-track housing development on appropriate sites in accordance with the policies and objectives of Rebuilding Ireland. This legislation recognises the strategic importance of such sites in the provision of housing in meeting both current and future need. It is therefore my opinion that the Bord is not precluded from granting permission in this instance, despite the material contravention of the operative development plan.
- 12.1.7 There has been no change in circumstances since the assessment of PL.06D.249205 relating to the institutional lands objective. I note the legal opinion submitted with the application and I refer to the planning history attached to the site, both refusals and granted of permission. None contained issues with the development of the site for residential purposes. The site was first sold by the School in 2009. The sale of the lands, which are predominantly woodland, implied that they were not intrinsic to any potential future plans to develop or expand the school site. I note recent applications by the School do not include the application site as part of its landholding, therefore it is not within the control of the School for future expansion or development for the purposes of a masterplan.

- 12.1.8 The development of 101 units on a site with a stated area of 1.27ha (developable area) has a density of 79.5 units per hectare (uph). The previously permitted scheme under PL.06D.249205 of 50 units had a density of 38.5 uph. RES3 of the Development Plan set out that higher densities may be encouraged on sites close to public transport corridors. The proposed density of 79.5uph is nearly double than that previously permitted, however I consider given the context of the site that higher densities can be accommodated on this site in accordance with the guidance for sites within 1km of public transport corridor.
- 12.1.9 With regard to the Unit Mix, I consider the unit mix is acceptable with 11 x studio units (11%) 26 x 1 bed units (26%)and 64 x 2 bed (63%) proposed. The development offers a mix apartments types. This would lead an acceptable population mix within the scheme, catering to persons at various stages of the lifecycle, in accordance with the Urban Design Manual. The proposed units type will improve the range of housing types available in the area which is predominately characterised by low density suburban housing. The proposed housing mix is acceptable and is in accordance with SPPR 4 of the Urban Development and Building Heights Guidelines for Planning Authorities. The provision of apartments within the scheme and at this location is also in accordance with the guidance set out in the Guidelines for Planning Authorities on Sustainable Residential Development.
- 12.1.10 The proposal does not include for the provision of a childcare facility. The Planning Authority note that a Childcare facility should be included as part of the development given the number of units proposed and its location adjacent to an operational school. A Childcare Capacity Assessment was included with the application which identifies that a demand of c. 17 no. childcare places is likely to be generated by the proposed development. Following an assessment of existing facilities in the local area, the report concludes that a significant vacancy rate exists within full-time, purpose built facilities which will easily cater for the demand potentially generated from the proposed development. It

continues by stating that there is no compelling case for an additional childcare facility on the site and the provision of such a facility may adversely affect existing childcare facilities in the area. I consider this justification acceptable in this instance.

12.2 Design & Layout.

12.2.1 A common thread throughout the third party submissions relates to the potential for the proposed development to be overbearing when viewed from adjoining properties. Many elements of the proposals are broadly similar including layout, overall form, height and design of the apartment building, the provision of a single storey amenity pavilion, open space provision, and access arrangements. I draw the Boards attention to the manner in which the current proposal seeks to increase the number of units from 49 to 101 within the envelope of development permitted by the Board in 2018. The overall form of the current proposal remains largely as permitted under PL.06D.249205 with the 101 apartments accommodated within a building of almost identical footprint of that permitted through a variation of the overall unit mix (omission of 3 bed and inclusion of studio units) and infilling of the western sections of formerly full height glazed atria to accommodate residential floor space. The maximum ridge height remains the same.

12.2.2 I am of the view that taking into account the proposed height, massing and design, footprint of the proposed development and setback from the boundaries separating the proposed apartment building for the residences along Castle Close and the Castleland Residences and the public realm within the proposed scheme would reasonably serve to ensure the proposals would not have an overbearing impact from these houses to the southwest, south and north. I am satisfied that the siting of the proposed development does not, and cannot, be visually dominant and overly prominent when considering how the development would relate to the adjoining residential properties, in particular along Castle Close and the Castlelands Residences (apartments), Castlelands or the protected structure, Castlepark School .

- 12.2.3 In my view, the use of high quality materials and finishes and contemporary design offers an opportunity for an aesthetically pleasing development at this location. I recognise that the proposal would have a visual impact when viewed from the surrounding area. Indeed any new development would have a visual impact. However, in my opinion, this could be a positive one. And a contemporary design which would be a welcomed addition at this location.
- 12.2.4 I note that computer-generated images of the proposed development have been submitted. While I accept that the proposed development would introduce a building marginally taller than the adjoining Castlelands Residence apartments, in the immediate vicinity, the overall height of the current proposal has not increased from the 4 storey development permitted in 2018. I do not consider that the proposal would have an overbearing impact on the surrounding area. I consider that the height and design of the proposed development is appropriate in the context of application site and the relationship of the proposed buildings to the public realm and adjoining properties.

- 12.2.5 The varied architecture of immediate area includes the Castlelands Residences (3 and 4 storey apartment blocks), traditional 2 storey suburban housing estates and a number of individual houses along Castle Close with individual access off Castle Close cul-de-sac. Castle Park Road has a variety of house types in terms of scale, finishes and designs.
- 12.2.6 Given the context of the site and the provisions of policy UD1 (urban design) of the County Development Plan, It is my view that the proposed development in terms of design, scale, massing, provision and location of public and private amenity space, boundary treatment and overall form represents a well thought out site specific design response to the site conditions. The contemporary style of the buildings, the provision of a basement carpark and the set back from the boundaries have regard to the constraints of the site and the adjoining uses. The site layout provides for interconnected spaces through the use of communal amenity areas and play areas. Soft and hard landscape features create a sense of place within the scheme. The design, internal layout and orientation facilitate dual aspect units. I consider the design and layout of the block is well thought out given the constraints of the site.
- 12.2.7 The proposal includes a single storey pavilion (amenity building) with an area of c. 140 sq.m. Its location and design is considered acceptable, overlooking of adjoining properties is not an issue.
- 12.2.7 The development provides a stated total of c. 4112. sq.m of open space (c.32.4%) with the woodland character of the site being retained and additional landscaping provided. I consider the proposal acceptable in terms of quantum and quality. Private open space is considered to be generally acceptable.

- 12.2.8 There is good connectivity and permeability within the site and from the site to adjoining amenities and the village centre are provided. Linkages through Castle Close and via the Avenue that serves Castlepark School. These will greatly improve accessibility and linkages in the area, increase their usage and by association security through active usage.
- 12.2.9 On balance I consider that the proposed development results in a good design concept that is acceptable in its form and layout; provides high quality usable open spaces; establishes a sense of place; would result in an acceptable standard of development that offers variety and distinctiveness, all of which would not lead to conditions injurious to the residential amenities of future occupants and accords with national and ministerial guidance.
- 12.2.10 The site is challenging due to constrained nature, woodland setting and adjoining Protected Structures. The applicant has attempted to address the sensitivities and constraints of the site through the use of a contemporary design solution and nestling the structure in the woodland setting. There is a clear distinction between the old and the new. The effect is not to jar with the character of the existing built environment but to add a contemporary element that enhances the architectural grain of the area. In this instance, I am satisfied that the proposal is an appropriate design intervention at this location as it adequately addresses the sensitivities of the site that include a variety of architectural styles and scales within the immediate vicinity, ranging from religious, educational and residential structures. The variety of uses, styles and scales along Castlepark Road and bounding the site, in my view, support the case for a modern intervention that would contribute to and add to the narrative of the area and would not be incongruous.
- 12.2.11 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.

12.2.12 I note the legal submission submitted with the application pertaining to the Institutional lands objectives. This matter was addressed by the Board under PL.06D.249205. There has been no change in circumstances to warrant a reversal of this assessment. The proposed development is in accordance with Plan requirements associated with the institutional lands objective. It does not intrude on the essential setting of the functioning school lands or its buildings. Thus, the integrity of the school remains unaffected. It distinctly affords the opportunity for public access to the lands. Some 32.4% of the site is provided as open space (well in excess of 25% required by the Plan). It clearly maintains the open and sylvan character of the site through this provision of open space, the retention of woodland, and the consequential buffers provided by this woodland. The design and layout of the development have particularly addressed the valuable existing features of the site by reference to retaining woodland, as well as dense bands of boundary trees and boundary walls.

12.3 Residential Amenity

12.3.1 The issue of impacts on surrounding existing properties was raised in many of the submissions received. In particular overlooking between the proposed apartment block, the pavilion building and houses/apartments bounding the site, in particular due to the height of the buildings, the presence of balconies, large windows, their set back from the site boundaries and the removal of trees from the site. This is currently a heavily wooded site and it is acknowledged that the proposal will result in a change in outlook for many of the local residents, if the proposed development is constructed. This is not necessarily a negative. The appropriate redevelopment of this site, could in the medium to long-term improve the amenity of the area considerably. I note the location of existing properties relative to the subject site and acknowledge that the properties along Castle Close, Castlelands and the Castlelands Residences would appear to be the nearest residential properties to the proposed development.

- 12.3.2 Cross sections at appropriate intervals showing the proposed development and the relationship with existing dwellings adjacent the site have been submitted.
- 12.3.3 I consider that the design of the elevations of the apartment block, internal configuration of apartment layouts, the relationship of the buildings (apartment block and pavilion) to the site boundaries and the separation distance from the nearest adjacent residential properties would serve to mitigate the potential for overlooking. Privacy would be further enhanced with the retention of trees and proposals for landscaping/screening to the boundaries to reduce the impact on adjoining residential properties. This matter can be addressed further by condition if the Board is of a mind to grant permission. Again I would like to draw the Board attention to the extant permission on site for a 4 storey apartment building and pavilion on the same footprint as the current proposal.
- 12.3.4 The Submissions raised concerns that the development would result in excessive overshadowing of neighbouring properties or a significant increase from that currently experienced due to the presence of mature trees on the site. I am of the view that while there is a degree of overshadowing it is not of an extent that would detract from the residential amenities of adjoining properties and warrant a reason for refusal. The orientation and layout of the proposed development would not lead to excessive overshadowing within the scheme. Consequently, I do not consider that the proposed development would lead to excessive overshadowing of proposed apartments, neighbouring properties or the adjacent open space.
- 12.3.5 The Sunlight, Daylight and Shadow Analysis submitted with the application and, in relation to the subsequent amendments with the appeal, concluded that the proposed development will not have any significant impact on the daylight conditions which will be available to the neighbouring properties. Further to this the results also indicate that no significant reduction in sunlight amenity can be expected for any of the neighbouring gardens and school. It noted that the area on which this development is proposed is currently a

dense area of tall mature woodland and scrub which itself casts shadow towards the neighbouring properties albeit with some permeability.

- 12.3.6 The level of amenity being afforded to proposed occupants is considered good. There are a number of single aspect units proposed within the development, however I note that orientation of these units is generally good. Adequate separation distances are proposed between the proposed development and adjoining properties to avoid issues of overshadowing or overlooking of the proposed units. I note the Daylight and Sunlight report submitted with the application, the results of which are considered acceptable for proposed units.
- 12.3.7 Light pollution and noise generated by the use of play areas, the pavilion and paths was also raised by third parties. I note that neither the Planning Authority nor the Board under PL.06D.249205 raised particular concerns on these issues previously. The context of the site and the setting of the proposed development will assist in assimilating the proposal into the woodland setting, which in itself assists in screening the proposal from surrounding properties and mitigate the impacts from stands levels of illumination and noise associated with residential development in built up areas.
- 12.3.8 Having regard to all of the above, I am of the opinion that while there will inevitably be some short-term disruption for local residents, in particular those along Castlelands this will be short-term in nature and I consider that impacts on the residential amenity of the area would not be so great as to warrant a refusal of permission. The nature of the proposal is such that I do not anticipate there to be excessive noise/disturbance once construction works are completed.

- 12.3.9 I am satisfied that the scheme, would provide for good quality development, providing a relatively high level of amenity for any future occupiers.
- 12.3.10 I note the separation distances involved, the existing site conditions together with the site and roof levels proposed, the degree of trees to be retained and augmented. I also note the location of the site, within an urban location in an area zoned primarily for residential uses. In such urban locations, a degree of overlooking/overshadowing could be reasonably anticipated. Having regard to all of the information before me, I am satisfied that the impacts on the residential amenity of the area, in particular the properties along Castle Close, Castlelands Lane and Castlelands Residences, 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 values or lead to damage to properties in the vicinity

12.4 Traffic and Transportation

- 12.4.1 The principle of using the existing school Avenue to access a residential development was adjudicated on by the Board under PL. 06D.249205. The Board at the time considered this an acceptable means of access. My assessment shall concentrate on the capacity of the proposed access to accommodate the increase in demand arising from the proposed increase from 49 to 101 residential units.
- 12.4.2 A single access is proposed off the Avenue serving Castlepark School (private access) off Castle Park Road. The access off the public road is located within the 50kph speed limit zone. The entrance gates to the school at Castle Park Road are a protected structure, no works are proposed to this entrance.

- 12.4.3 The proposal to widen the internal access road to accommodate the proposed development was also considered under the previous application for the site. The existing entrance to Castlepark School, a protected structure, is not altered and the proposed alterations to the internal access road are minimal and do not encroach on the setting of the Protected Structure.
- 12.4.4 The site is located on lands zoned for residential use as set out in the Dun Laoghaire Rathdown County Development Plan 2016-2022. The impact of the land uses zonings and permitted densities on public infrastructure is taken into consideration during the Development Plan process. I am satisfied the proposal would not constitute a traffic hazard due to increase traffic movements. Carparking and bicycle parking would be accommodated in a communal basement carpark.
- 12.4.5 A Traffic and Transportation Impact Assessment (including statement of compliance with DMURS) and Road Safety Audit are submitted with the application, the TII and DLR Transportation Planning Section noted no objection on traffic grounds subject to the implementation of the recommendations of the TTA. The proposal has regard to its location adjacent to Castle Park School and peak times associated with School times and traffic. Based on the available information there is no evidence that the proposed access arrangements and increase in traffic movements associated with the proposed development would have a negative impact on the carrying capacity of Castle Park Road or have a negative impact upon the development potential of other sites along this Road

- 12.4.6 80 no. car parking spaces are proposed in a communal basement carparking. 158 bicycle spaces are proposed. The Planning Authority raised reservations regarding the proposed level of car parking to be provided on site and recommended that a total of 110 spaces be required to be provided by condition. I consider, given the context of the site, its location and proximity to public transport routes and three Dart Stations and Dalkey village centre that the proposed carparking provision (80 car spaces) is acceptable and compliant with national guidance.
- 12.4.7 The use of the gate to the school from Castlelands for emergency/fire tender access purposes, for pedestrian access and for temporary construction access was deemed acceptable by the Board under PL.06D.249205. The level of construction traffic associated with the construction of the proposed development would result in a minimal increase in movements for a limited period of time. This access can adequately accommodate vehicular movements on and off the site to the wider road network to facilitate the construction of the proposed development over the short lifespan of the construction period. The ongoing use of this access for emergency access purposes causes no particular concern and its use by pedestrians will greatly improve permeability via the school lands and the application site. I am satisfied that appropriate traffic management measures associated with the construction phase of this development can be dealt with by the use of appropriate conditions.
- 12.4.8 The principle of a proposed pedestrian/cycle access gate connecting to Castle Close was considered acceptable under the 2018 grant of permission. I do not consider that the increase in the number of units and associated usage levels will lead to a negative impact on the amenities of the residents of Castle Close. The nature of this access leading onto a minor residential street causes no particular traffic or amenity concerns.
- 12.4.9 Further to the above, it is also worth noting that the Transportation Planning Section of the planning authority did not object to the proposed access arrangements. The requirements set out in the Transportation Planning Report

included with the Chief Executives Report received by An Bord Pleanála on the 12th March 2020 are not matters that merit any refusal of permission on traffic safety grounds.

- 12.4.10 Based on available information I consider the proposal acceptable and can accommodate the potential increase in traffic, vehicular, pedestrian and cyclist, arising from the proposed development and would not present a traffic hazard or an obstruction to road users, cyclists or pedestrians.

12.5 Loss of Woodland:

- 12.5.1 There a local objective to protect trees and preserve woodlands. In this instance I would draw the Boards attention to the extant permission on site. This was assessed with the 2016-2022 Development Plan being the operative Plan. In my opinion the proposal adopts the same approach as that permitted by the Board in 2018. It seeks to minimise the physical impact on the woodland of particular importance, namely the boundary tree screen buffer with neighbouring residential properties to the rear.
- 12.5.2 Under PL.06D.249205 The Inspectors submitted to the Board that *In the knowledge that these lands are zoned for residential development and that there is no objection in principle to such development, the approach to maximise the retention of woodland to keep with the local objective and to protect neighbouring properties is a welcome provision which this layout accommodates. Another important provision that the proposed layout on these residentially zoned lands makes is to maintain a very significant buffer to the front of the proposed blocks which physically segregates the new development from that part of Castle Park School which forms the protected structure, providing a most important screen and minimising any potential interference with the setting of the school.* I note that the footprint of the development remains largely unchanged from that assessed and deemed acceptable under PL.06D.249205.

- 12.5.2 The existing site has a substantial amount of mature trees and other vegetation, which formed part of the original grounds of Castlepark School. I have reviewed the Arboricultural Assessment, Tree Protection Plan and Trees Constraints Plan in conjunction with the proposed landscaping plan.
- 12.5.3 I consider that the fundamental issue raised in the submissions relate to site clearance and the impact this would have on the character of the area, the setting of Castlepark School and the loss of outlook for adjoining residential properties. The issue remains as to facilitate the development of the site, which forms part of the original curtilage of Castlepark, substantial site clearance is required. I have examined the architectural Impact Assessment and the arborist report and I conclude that there is no doubt that any site clearance will have an irreversible impact on the character of the site. In relation to the impact on the adjoining protected structure. I am of the view that the setting of Castlepark School has already been significantly compromised by the construction of contemporary structure adjacent to it. Furthermore the proposal involves the retention of significant amount of trees with additional landscaping proposed where required. The principle of clearing trees from the site to accommodate a residential development was considered and deemed acceptable by the Board in 2018 under PL.06D.249205. The current proposal has the same foot print and broadly the same development envelope. Therefore the visual impact from the tree removal to accommodate the proposed structure has not incrementally increased from that considered acceptable in 2018.
- 12.5.4 The Department of Culture, Heritage and the Gaeltacht did not raise objections to the current proposal on built heritage or historical landscape grounds
- 12.5.5 In terms of nature conservation, this matter was addressed by the Department of Heritage, Culture and the Gaeltacht in their submission and appropriate conditions recommended. Section 12.9 of this report deals with Ecological Assessment.

12.6 Drainage

- 12.6.1 A new water connection to the public mains is proposed via Castlelands, and a foul sewer and storm water drainage pipe connection to Castle Park Road via Castle Close.
- 12.6.2 A Confirmation of Feasibility dated 29th May 2019 from Irish Water is submitted with the application. Along with a Certificated of Acceptance of Design Submission dated 12th September 2019 from Irish Water to show that the proposed connection to the Irish Water network can be facilitated. A letter from Arborist Associates dated 4th December 2019 submitted with the application confirms that the required services can be accommodated on site 'without impacting significantly on the work exclusion zones created around trees being retained. The Construction Management Plan includes confirmation of the applicant's intention to comply with the requirements of the Arborist during construction.
- 12.6.3 Foul and surface water remains separate within the site and along Castle Close until the final discharge manhole prior to discharging to the combined sewer on Castlepark Road. The existing surface water sewer on Castle Close will be relayed as part of the proposed development.
- 12.6.4 A letter from Dun Laoghaire Rathdown County Council is included with the application in relation to foul sewer and storm drainage works and connection via Castle Close via a public road. The Council's consents to the inclusion of lands hatched red on Drawing No. D1521-D1-Rev PL4 to complete the required foul sewer and storm drainage works for the proposed housing development.
- 12.6.5 Due to the presence of surface and sub-surface rock, there is limited application for SUDS on this development. Notwithstanding the applicant has detailed that the proposed access road through the site is proposed to be laid with permeable paving. In addition the roofs will incorporated SUDS measures in the form of green and blue roofs. The design feature at roof level will also

promote wildlife habitat, improve the quality and reducing the quantity of runoff to reduce the volume of attenuation required at ground level.

12.6.6 The surface water discharge rate from the impermeable areas will be restricted to requisite design standards for the site. The design of the attenuation system relates solely to the developable area. The remainder of the site to the west of the building is to remain undeveloped and the topography is such that it naturally drains to the existing open drain on the south-west boundary.

12.6.7 The Planning Authority's Drainage Section has no objection subject to conditions.

12.6.8 The submission by IW suggests that upgrade works are required over third party lands to facilitate connection to the water main along Castlelands Lane. Upgrade works are also required to facilitate foul sewer extension (letter of consent from DLRCC). The correspondence states:

Water: The connection point for the proposed development should be made to the existing 150mm ID uPVC main in Castlelands Lane. In order to facilitate this connection the network must be extended with approx. 50m via private land. The applicant is required to obtain the appropriate permission from the landowners. In addition, the applicant is required to obtain a wayleave from the landowner in favour of Irish Water over this infrastructure ensuring unrestricted access should future maintenance be required. The cost of the water network extension will be borne by the applicant.

Waste water: The connection point for the proposed development should be made to the existing 850mm ID concrete sewer in Castlepark Road. In order to facilitate this connection the network must be extended approx. 160m. Any consents will be agreed by the applicant. Appropriate wayleave in favour of Irish Water over the infrastructure will be required to ensure unrestricted access should future maintenance be required.

- 12.6.9 The applicants have submitted a detailed legal submission which includes a map of all way leaves that they have rights over. This indicates a right of way marked AB to the north west of the site along the main access avenue to the school. A further right of way (marked CD) is indicated to the south east connecting to Castlelands Lane.
- 12.6.10 Notwithstanding this it is noted that there is some ambiguity in the application drawings as to the location of the services proposed to serve the development. Drawing ref. D1521 D2 PL1 indicates the watermain layout. The watermain layout however appears to be omitted. I note the extant permission on the site and the watermain layout included with same. I am of the view that the discrepancy in the information submitted can be addressed by condition if the Board is of a mind to grant permission.
- 12.6.11 On balance, I am satisfied from the legal submission that the applicant is likely to have the necessary legal entitlement to provide connections through third party lands in order to facilitate connections to existing services. Furthermore, it is noted that permission has previously been granted by the Board under PA Reg. Ref.D17A/0551. (ABP PL.06D.249205) for a development comprising 49 apartments. No objections were raised previously by IW, the Planning Authority or the Board regarding the servicing of that development. The Board should also have regard to Section 34 (13) of the Planning and Development Act 2000 (as amended) which reads '*A person shall not be entitled solely by reason of a permission under this section to carry out development*'.

12.7 Part V

It is proposed to provide 10 no. units to meet the requirements of Part V. These consist of 6 1 bed (type A) and 4 2 bed (type B). If the Board is disposed to grant permission a condition should be attached requiring the

development to comply with the provisions of section 97 of the Planning and Development Act 2000 as amended.

12.8 Other

12.8.1 Noise & Vibrations

Third parties have raised concerns that the amenities of local residents and the adjoining school would be impacted by noise and vibrations during the construction phase of the proposed development. I note that rock breaking and excavation works would be required. The method and timeframes to be employed could be dealt with by condition if the Board consider a grant of permission.

The Construction Management Plan would address how it is proposed to manage noise, vibration and other impacts arising at the construction phase to ensure the construction of the basement car park is undertaken in a controlled and appropriately engineered manner to minimise intrusion.

I note that the impacts associated with the construction works and construction traffic would be temporary and of a limited duration. I am satisfied that any outstanding issues could be required by condition if the Board is of a mind to grant permission.

12.8.2 Architectural Heritage

The site is adjacent to Castlepark School and is located within the grounds of same. An Architectural Impact Assessment has been submitted with the application and I draw the Boards attention again to the extant permission for an apartment scheme on this site.

Castle Park School has been the subject of extensive alterations and development over the years, including a substantial contemporary style development abutting the Protected Structure.

The site is challenging due to constrained nature, woodland setting and adjoining Protected Structures. I am satisfied that the proposal is an

appropriate design intervention at this location as it adequately addresses the sensitivities of the site. In my opinion, the proposal, if permitted would not detract from the character or setting of Castlepark School.

The proposed development itself is appropriate in terms of height, scale, bulk and mass, it introduces a compatible palette of finishes in the woodland setting, and it is carefully screened from any potential interference it may have on the integrity and setting of the protected structure. Having regard to this, it is considered reasonable to conclude that the proposed development does not run contrary to the policies and provisions of the Dún Laoghaire-Rathdown County Development Plan as they relate to built heritage and it does not contradict any provisions set out in *Architectural Heritage Protection Guidelines for Planning Authorities*.

12.8.3 Archaeology

An Archaeological Impact Assessment was submitted with the application. This assessed the archaeological significance of the site and the impact of the development on cultural heritage. The Planning Authority have raised no objection on archaeological grounds. A report on file from the Department of Culture, Heritage and the Gaeltacht noted that the Archaeological Assessment was undertaken as part of the Department's recommendations. The report describes the results of archaeological testing on site. No features or materials were found during testing. In light of the testing carried out and on review of the Assessment submitted and the archaeological context of the site the Department has recommended that no further monitoring is required. I am satisfied in this regard.

12.8.4 Flooding

A Flood Risk Assessment has been submitted with the application and the information contained therein appears reasonable and robust. This states that the site is located within Flood Zone C and a Justification Test is not required. The planning authority have not raised concerns in relation to flood risk. I am satisfied in this regard.

12.9 Ecological Assessment

- 12.9.1 This section of my assessment examines biodiversity, with the issue of appropriate assessment being examined below in section 12.10. There is some overlap between the two sections.
- 12.9.2 I note that a habitat survey was carried out on 15th July 2019 on behalf of the applicants. Previous surveys were carried out by the same consultants in 2014 at which time the lands were identified as having a potential active badger sett due to the presence of a suitably sized burrow system. The 2019 survey assessed the habitats for signs of usage by protected/re-listed species and any potential to hold these species.
- 12.9.3 Bat surveys were carried out on site at the same time as the multidisciplinary survey. A number of trees located across the proposed development site were examined from ground level for potential to support roosting bats. Two dusk bat emergence and activity surveys were undertaken on the 10th July and 15th July 2019 using direct observation and handheld ultrasound detector. Surveys were undertaken within the main season of bat activity during calm dry weather conditions and the temperature on all nights was within the range suitable for bat activity. In addition two automated bat detectors were deployed for two weeks between 10th July to 24th July 2019. Surveys found the site was used by small number of bats species for foraging and commuting and due to the potential suitability of trees within the subject land to host roosting bats.
- 12.9.4 There was no dedicated bird survey at this time as it fell outside the optimum season for surveying breeding birds, birds on site were recorded on an ad-hoc basis during the 2019 and 2014 site visits.
- 12.9.5 Surveys of the lands for terrestrial fauna were undertaken outside of the optimal survey season for detection of signs of badger and otter. The survey limitation was overcome through the use of remote motion-activated infrared cameras and recommendations for specific mitigation measures to protect any badgers. Therefore it was concluded that the limitation was not considered to

have compromised the baseline prediction or impact assessment. Surveys found a number of badger snuffle holes were observed. And although badgers were recorded on camera, there are no badger setts present on site and no evidence of badger usage of the burrow systems. The local badger population may forage on site.

- 12.9.6 No direct observations or signs of red squirrel were noted during site surveys. Findings noted grey squirrels.
- 12.9.7 There are record of pygmy shrew and hedgehog in the local area
- 12.9.8 Flora survey carried out, the predominant habitat type is mixed broadleaf woodland. The canopy is dominated by horse chestnut and sycamore, with abundant ash and frequent winch elm. The canopy also includes occasional pedunculated oak, common lime and beech. The understorey vegetation is dominated by bramble, nettle and ivy with an occasional mix of holly. The majority of trees within this woodland area are of poor quality with limited potential for numerous reasons incusing limited root ability of many trees growing on top of rock crops, impacts from poor drainage. The invasive non-native plant species Spanish bluebell was noted within this woodland area on the 15th July 2019. The report concludes that the habitat is assessed as being of local ecological importance for flora and fauna.
- 12.9.9 Given the extent of Woodland removal (c. 55% of trees to be removed) the report concluded that the loss is likely to result in a significant negative effect at local geographic scale. Landscaping Plan submitted with the application include proposal to plant 14 semi-mature and c.70 mature as well as c.713sq.m of riparian planting along the drainage ditch. The report concludes that while this will enhance the biodiversity and ecological value of the woodland area being retained it will not mitigate the loss of the woodland habitat.
- 12.9.10 The Department of Culture, Heritage and the Gaeltacht in their submission have set out recommended conditions relation to nature conservation.

12.9.11 Section 6 of the Ecological Impact Assessment sets out a suite of mitigation measures. This ranges from measures to manage and control Spanish Bluebell and control of invasive species. Measures for Bats, Birds, Badgers and other small mammals. With the implementation of these measures, I am satisfied that the development will not cause any significant negative impacts on designated sites, habitats, legally protected species or any other features of ecological importance. The mitigation measures set are reasonable and can be implemented by way of condition.

12.10 Appropriate Assessment

12.10.1 A Stage 1 Appropriate Assessment Screening Report was submitted with the application. The AA Screening Report considers designated Natura 2000 sites within the Zone of Influence of the proposed development. This concluded that given the nature of the project and its potential relationship with European sites and their conservation objectives, as well as considered other plans and projects, and applying the precautionary principle, it is the professional opinion of the authors of the report that no potential for likely significant effects on any European sites and does not require an Appropriate Assessment or preparation of a Natura Impact Statement (NIS).

12.10.2 The application site is not located within or immediately adjacent to an European site. The subject lands are located 240m south west of Dublin Bay coastal waterbody. The following European sites are located in the downstream receiving environment:

- Rockabill to Dalkey Island SAC.
- South Dublin Bay SAC
- North Dublin Bay SAC.
- Dalkey Island SPA.
- South Dublin Bay and River Tolka Estuary SPA
- North Bull Island SPA

There is no potential source-pathway-receptor connections with any other European sites.

12.10.3 The surface water runoff and discharges from the proposed development will drain to the combined sewer network on Castlepark Road via a separate surface water drainage network within the site, from there it will be transferred to Ringsend WWTP prior to discharge to Dublin Bay. The foul effluent generated by the proposed development (pe273) will drain via a separate foul drainage network within the site prior to discharge into a combined sewer network at Castlepark Road, from there it will be transferred via the combined sewer for treatment to Ringsend WWTP for treatment prior to discharge to Dublin Bay. Therefore the development has a potential impact pathway to European Sites within Dublin Bay via the combined surface water and foul water network.

12.10.4 In view of the potential hydrological connection to sites within Dublin Bay, I consider that the potential for effects on sites within the Dublin Bay coastal waterbody need to be considered at the Screening Stage. There are no hydrological or ecological pathways to any other European sites due to the separation distances involved and the absence of any ecological / hydrological or other potential impact pathways. I am, therefore, satisfied that likely significant impacts can be excluded in respect of all other European Sites at the preliminary stage.

12.10.5 Potential Effects on Designated Sites

There are 6 no. European sites that are downstream of the proposed development as follows:

Site Name (Site Code)	Distance to Development Site	Qualifying Interests
Rockabill to Dalkey Island SAC. (003000)	c. 1.3km (approx.)	Reefs [1170] Harbour porpoise (Phocaena)
Dalkey Island SPA (004172)	c.1.1km (approx.)	Rosete Tern (Sterna dougalli) [A192] Coomo Tern (Tern Sterna hirundo) [A193]

		Arctic Tern (<i>Sterna paradisaea</i>) [A194]
South Dublin Bay SAC (000210)	c.3km (approx.)	Mudflats and sandflats not covered by seawater at low tide [1140] Annual vegetation of drift lines [1210] Salicornia and other annuals colonising mud and sand [1310] Embryonic shifting dunes [2110]
South Dublin Bay and River Tolka Estuary SPA (004024)	c.2.6 km (approx.)	Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046] Oystercatcher (<i>Haematopus ostralegus</i>) [A130] Ringed Plover (<i>Charadrius hiaticula</i>) [A137] Grey Plover (<i>Pluvialis squatarola</i>) [A141] Knot (<i>Calidris canutus</i>) [A143] Sanderling (<i>Calidris alba</i>) [A144] Dunlin (<i>Calidris alpina</i>) [A149] Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] Redshank (<i>Tringa totanus</i>) [A162] Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179] Roseate Tern (<i>Sterna dougallii</i>) [A192] Common Tern (<i>Sterna hirundo</i>) [A193] Arctic Tern (<i>Sterna paradisaea</i>) [A194] Wetland and Waterbirds [A999]
North Dublin Bay SAC (000206)	c.7.4km (approx.)	Mudflats and sandflats not covered by seawater at low tide [1140] Annual vegetation of drift lines [1210] Salicornia and other annuals colonising mud and sand [1310] Atlantic salt meadows (<i>Glaucopuccinellietalia maritima</i>) [1330] Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410] Embryonic shifting dunes [2110] Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120] Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]

		Humid dune slacks [2190] Petalophyllum ralfsii (Petalwort) [1395]
North Bull Island SPA (Site Code 004006);	c.7.4km (approx.)	Light-bellied Brent Goose (Branta bernicla hrota) [A046] Shelduck (Tadorna tadorna) [A048] Teal (Anas crecca) [A052] Pintail (Anas acuta) [A054] Shoveler (Anas clypeata) [A056] Oystercatcher (Haematopus ostralegus) [A130] Golden Plover (Pluvialis apricaria) [A140] Grey Plover (Pluvialis squatarola) [A141] Knot (Calidris canutus) [A143] Sanderling (Calidris alba) [A144] Dunlin (Calidris alpina) [A149] Black-tailed Godwit (Limosa limosa) [A156] Bar-tailed Godwit (Limosa lapponica) [A157] Curlew (Numenius arquata) [A160] Redshank (Tringa totanus) [A162] Turnstone (Arenaria interpres) [A169] Black-headed Gull (Chroicocephalus ridibundus) [A179] Wetland and Waterbirds [A999]

The application site does not overlap with the boundary of any European site, therefore there are no European sites at risk of direct habitat loss impacts.

The potential for significant effects on the qualify interest of the European Sites listed above as a result of disturbance and displacement effects do not arise. There are no European sites within the Zone of Influence for disturbance arising from construction. The nearest European site is c.1.1km away. In addition there is c. 1.1km terrestrial buffer between the application site and the nearest European site.

As the proposal would not result in the disturbance/displacement of the qualifying/special conservation interest species of any European site, there is not potential for any in combination effects to occur in that regard.

The potential for significant effects on the qualifying interests of the European sites listed above as a result of surface and foul waters generated during the construction and operational stage can be excluded. This conclusion is based on the fact that:

- The relatively low volume of any potential surface water run off or discharge events during construction relative to the recovering surface water and marine environments.
- Should a pollution event occur during the construction phase due to the accidental spillage or release of contaminants this would not be of such magnitude so as to have a significant adverse effect on downstream water quality in Dublin Bay due to the level of separation and the dilution arising from the volume of water between the sites. The distance between the subject lands and European sites within Dublin Bay and potential for pollution to be dissipated in the drainage network.
- Foul and surface waters will discharge to the existing combined foul and surface water network and will travel to Ringsend WWTP for treatment prior to discharge to Dublin Bay; the Ringsend WWTP is required to operate under EPA licence and meet environmental standards, further upgrade is planned and the foul discharge from the proposed development would equate to a very small percentage of the overall licenced discharge at Ringsend WWTP, and thus would not impact on the overall water quality within Dublin Bay.
- The EPA in 2018 classified water quality in Dublin Bay as 'unpolluted'.

12.10.6 In Combination or Cumulative Effects

The potential for in combination impacts can also be excluded. I base my judgement on the following:

- Coastal waters in Dublin Bay are classed as 'Unpolluted' by the EPA;
- Sustainable development including SUDS for all new development is inherent in objectives of all development plans within the catchment of Ringsend WWTP;

- The Ringsend WWTP extension is likely to be completed in the short – medium term to ensure statutory compliance with the WFD. This is likely to maintain the ‘Unpolluted’ water quality status of coastal waters despite potential pressures from future development;
- At the time of writing there was no proven link between WWTP discharges and nutrient enrichment of sediments in Dublin Bay based on previous analyses of dissolved and particulate Nitrogen signatures; and
- Enriched water entering Dublin Bay has been shown to rapidly mix and become diluted such that the plume is often indistinguishable from the rest of bay water.

12.10.7 I conclude that the proposed development would not be likely to have any significant effects on any Natura 2000 site, either directly or indirectly or in combination with other plans and projects. This conclusion is consistent with the appropriate assessment screening report submitted with the application.

12.10.8 I acknowledge the previous screening exercise carried out by the Board in 2018 and I note the urban location of the site, the connections with regard to the source-pathway-receptor model, the intervening distances between the application site and the above designated sites and the nature of the development. I am satisfied on the basis of the information available on file, which I consider adequate in order to issue a screening determination, that the development, individually or in combination with other plans or projects would not be likely to have a significant effect on the above listed European Sites in view of the sites conservation objectives and that a stage 2 Appropriate Assessment is therefore not required.

13.0 Recommendation

Having regard to the above assessment, I recommend that section 9(4)(a) of the Act of 2016 be applied and that permission is **GRANTED** for the development, for the reasons and considerations and subject to the conditions set out below.

14.0 Reasons and Considerations

Having regard to the:

- a) The site's location on lands with a zoning objective for residential development;
- b) The policies and objectives in the Dun Laoghaire Rathdown county Development Plan 2016 to 2022;
- c) Nature, scale and design of the proposed development;
- d) Pattern of existing and permitted development in the area;
- e) The Rebuilding Ireland Action Plan for Housing and Homelessness 2016;
- f) The National Planning Framework issued by the Department of Housing, Planning and Local Government in February 2018;
- g) The Guidelines for Sustainable Residential Developments in Urban Areas and the accompanying Urban Design Manual – a Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009;
- h) 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;
- i) The Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of the Environment, Community and Local Government in March 2018;
- j) The Urban Development and Building Heights Guidelines for Planning Authorities 2019;
- k) The Planning System and Flood Risk Management' (including the associated 'Technical Appendices') 2009;
- l) Architectural Heritage Protection- Guidelines for Planning Authorities 2011;
- m) Submissions and observations received.

15.0 Recommended Order

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 17th day of January 2020 By Curve Devco Limited by Stephen Little & Associates 26/27 Upper Pembroke Street, Dublin 2.

Proposed Development

Development for lands at Castlepark School, Castle Park Road and at Castle Close, Dalkey, Co. Dublin.

The development will consist of:

- 101 apartment units comprising (11 no. studio, 26 no. 1 bedroom & 64 no. 2 bedroom units) each with balcony/terrace spaces;
- The apartments are arranged in a crescent shaped building ranging in height from 2-4 storeys over a single basement level;
- 80 no. car parking spaces provided at basement level and a total of 156 no. bicycle spaces at basement level and surface level (including a covered bike parking store catering for 14 no. spaces at surface level);
- All associated site development works including: site excavation, hard and soft landscaping, provision of open space, all boundary treatments, lighting, children's play area, a single storey pavilion building providing residents amenity space (c.140sq.m), ESB Substation (c.219sq.m); bin stores and plant at basement level and ancillary site attenuation (including green roofs and PV solar panels at roof level of the apartment buildings);
- Foul sewer and storm drainage pipe connection to Castle Park Road via Castle Close;
- Vehicular access serving the scheme is off the existing avenue also serving Castle park School via the existing school entrance off Castle Park Road;
- A new controlled pedestrian/cycle access gate is proposed connection to Castle Close;

- The use of the existing gate to the School from Castlelands for emergency/fire tender access purposes, for pedestrian/cycle access and for temporary construction access.

The application contains a statement setting out how the proposal is consistent with objectives of the Dun Laoghaire Rathdown County Development Plan.

The application contains a statement indicating why permission should be granted for the proposed development, having regard to a consideration specified in section 37(2)(b) of the Planning and Development Act , 2000, as amended, notwithstanding that the proposed development materially contravenes a relevant development plan or local area plan in relation to the zoning of the land.

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 on lands with a zoning objective for residential development;
- b) The policies and objectives in the Dun Laoghaire Rathdown county Development Plan 2016 to 2022;
- c) Nature, scale and design of the proposed development;
- d) Pattern of existing and permitted development in the area;
- e) The Rebuilding Ireland Action Plan for Housing and Homelessness 2016;

- f) The National Planning Framework issued by the Department of Housing, Planning and Local Government in February 2018;
- g) The Guidelines for Sustainable Residential Developments in Urban Areas and the accompanying Urban Design Manual – a Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009;
- h) 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;
- i) The Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of the Environment, Community and Local Government in March 2018;
- j) The Urban Development and Building Heights Guidelines for Planning Authorities 2019;
- k) The Planning System and Flood Risk Management’ (including the associated ‘Technical Appendices’) 2009;
- l) Architectural Heritage Protection- Guidelines for Planning Authorities 2011;
- m) Submissions and observations received.
- n) the report of the Inspector.

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

Appropriate Assessment Screening

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 and 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.

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.

Conclusion on Proper Planning and Sustainable Development

The Board considered that, subject to compliance with the conditions set out below that the proposed development would constitute an acceptable quantum and density of development in this accessible 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.

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, or as otherwise stipulated by conditions hereunder, and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of clarity.

2. Details of the materials, colours and textures of all the external finishes to the proposed dwellings/buildings shall be as submitted with the application, unless otherwise agreed in writing with, the planning Authority prior to commencement of development. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of visual amenity.

3. 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 amenities of property in the vicinity and the visual amenities of the area.

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

Reason: In the interest of urban legibility.

5. Public lighting shall be provided in accordance with a scheme, [which shall include lighting along pedestrian routes through open spaces] details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development/installation of lighting. Such lighting shall be provided prior to the making available for occupation of any house.

Reason: In the interests of amenity and public safety.

6. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All existing over ground cables shall be relocated underground as part of the site development works.

Reason: In the interests of visual and residential amenity.

7. The following requirements in terms of traffic, transportation and mobility shall be incorporated and where required, revised drawings / reports showing compliance with these requirements shall be submitted to, and

agreed in writing with, the Planning Authority prior to commencement of development:

- (a) The roads and traffic arrangements serving the site (including footpath connections and 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 including junctions, parking areas, footpaths, cycle paths and kerbs, pedestrian crossings, car parking bay sizes and road access to the development shall comply with the requirements of the Design Manual for Roads and Streets and with any requirements of the Planning Authority for such road works.
- (c) Cycle tracks/paths within the development shall be in accordance with the guidance provided in the National Cycle Manual.
- (d) The materials used in any roads/footpaths/set down areas provided by the developer shall comply with the detailed standards of the Planning Authority for such road works.
- (f) The developer shall carry out a Stage 2 and Stage 3 Quality Audit (which shall include a Road Safety Audit, Access Audit, Cycle Audit and Walking Audit), which shall be submitted to the Planning Authority for its written agreement. The developer shall carry out all agreed recommendations contained in the audits, at the developer's expense.

Reason: In the interests of traffic, cyclist and pedestrian safety.

7. (a) The car parking facilities hereby permitted shall be reserved solely to serve the proposed development. 80 no. clearly identified car parking space shall be assigned permanently for the residential development and shall be reserved solely for that purpose. These residential spaces shall not be utilised for any other purpose, including for use in association with any other uses of the development hereby permitted, unless the subject of a separate grant of planning permission.

- (b) Prior to the occupation of the development, a Parking Management

Plan shall be prepared for the development and shall be submitted to and agreed in writing with the planning authority. This plan shall provide for the permanent retention of the designated residential parking spaces and shall indicate how these and other spaces within the development shall be assigned, segregated by use and how the car park shall be continually managed.

Reason: To ensure that adequate parking facilities are permanently available to serve the proposed residential units.

8. 156 no. bicycle parking spaces shall be provided within the site. Details of the layout, marking demarcation and security provisions for these spaces shall be as submitted to An Bord Pleanála with this application, unless otherwise agreed in writing with, the planning authority prior to commencement of development.

Reason: To ensure that adequate bicycle parking provision is available to serve the proposed development, in the interest of sustainable transportation.

9. Prior to the opening/occupation of the development, a Mobility Management Strategy shall be submitted to and agreed in writing with the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking and carpooling by residents/occupants/staff employed in the development and to reduce and regulate the extent of parking. The mobility strategy shall be prepared and implemented by the management company for all units within the development. Details to be agreed with the planning authority shall include the provision of centralised facilities within the commercial element of the development for bicycle parking, shower and changing facilities associated with the policies set out in the strategy.

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

10. A minimum of 10% of all communal car parking spaces should be provided with functioning EV charging stations/points, and ducting shall be provided for all remaining car parking spaces, including in-curtilage spaces, facilitating the installation of EV charging points/stations at a later date. Where proposals relating to the installation of EV ducting and charging stations/points has not been submitted with the application, in accordance with the above noted requirements, such proposals shall be submitted and agreed in writing with the Planning Authority prior to the occupation of the development.

Reason: To provide for and/or future proof the development such as would facilitate the use of Electric Vehicles

11. 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 surface water management

12. 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 three years of planting shall be replaced in the first planting season thereafter.

Reason: In the interest of residential and visual amenity.

13. Prior to commencement of any permitted development, the developer shall engage the services of a qualified arborist as an arboricultural consultant, for the entire period of construction activity. The developer shall

inform the Planning Authority in writing of the appointment and name of the consultant, prior to commencement of development. The consultant shall visit the site at a minimum on a monthly basis, to ensure the implementation of all of the recommendations in the tree reports and plans. To ensure the protection of trees to be retained within the site, the developer shall implement all the recommendations pertaining to tree retention, tree protection and tree works, as detailed in the in the submitted Arboricultural Assessment Report and accompanying documents. All tree felling, surgery and remedial works shall be completed upon completion of the works. All works on retained trees shall comply with proper arboricultural techniques conforming to BS 3998: 2010 Tree Work – Recommendations. The clearance of any vegetation including trees and shrub shall be carried out outside the bird-breeding season (1 March–31 August inclusive) or as stipulated under the Wildlife Acts 1976 and 2000. The arborist shall carry out a post construction tree survey and assessment on the condition of the retained trees. A completion certificate is to be signed off by the arborist when all permitted development works are completed and in line with the recommendations of the tree report. The certificate shall be submitted to the planning authority upon completion of the works.

Reason: To ensure and give practical effect to the retention, protection and sustainability of trees during and after construction of the permitted development.

14. The mitigation measures outlined in the Ecology Impact Assessment submitted with this application shall be carried out in full, except where otherwise required by conditions of this permission.

Reason: To protect the environment and in the interest of wildlife protection.

15. (a) A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in

particular, recyclable materials and for the ongoing operation of these facilities for each apartment unit shall be submitted to, and agreed in writing with, the planning authority not later than 6 months from the date of commencement of the development. Thereafter, the waste shall be managed in accordance with the agreed plan.

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

(c) This plan shall provide for screened bin stores, which shall accommodate not less than three standard sized wheeled bins within the curtilage of each house plot.

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

16. (a) The communal open spaces, including hard and soft landscaping, car parking areas and access ways, communal refuse/bin storage and all areas not intended to be taken in charge by the local authority, shall be maintained by a legally constituted management company

(b) Details of the management company contract, and drawings/particulars describing the parts of the development for which the company would have responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the residential units are made available for occupation.

Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

17. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, or by the local authority in the event of the development being taken in charge. Detailed proposals in this regard shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

Reason: To ensure the satisfactory completion and maintenance of this development.

18. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management.

19. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:
 - a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
 - b) Location of areas for construction site offices and staff facilities;
 - c) Details of site security fencing and hoardings;
 - d) Details of on-site car parking facilities for site workers during the course of construction;
 - e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;

- f) Measures to obviate queuing of construction traffic on the adjoining road network;
- g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- h) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;
- i) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- j) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
- k) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- l) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.
- m) Prior to the commencement of development the developer shall submit for the written agreement of the Planning Authority details and methodology for the rock extraction and excavation works. This shall include timeframes and proposals to deal with vibration and noise.
- n) A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

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

20. Site development and building works shall be carried out only between the hours of 070] to 1900 Mondays to Saturdays inclusive, and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

21.

- a) Prior to the commencement of development the developer shall submit for the written agreement of the planning Authority water main layout details, in particular connection proposals and layout via Castlelands Lane or alternative layout/route as agreed with the Planning Authority.
- b) The developer shall enter into water and/or waste water connection agreements with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

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

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

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

maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

24. 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.

Daire McDevitt

Planning Inspector

23rd April 2020

Appendix 1

List of Submissions received.

1. Adrian Brooks.
2. Alice and David Vondrys.
3. Ann Maria and Denis Lucey.
4. Anne Lyons
5. Anne Pauline McHugh.
6. Carole Crowley and Chris O'Grady.
7. Castlelands Management Co.
8. Castlelands Residents Association.
9. Ciara Lyons.
10. Colette Billings.
11. Dalkey Community Council.
12. Davina and Sean McVeigh.
13. Deirdre Baneham.
14. Elaine Hickey.
15. Elizabeth Anne Morgan.
16. Elma Chambers.
17. Epsen Bremserud and Etsuko Kanamori.
18. Erica Murray.
19. Gerry and Rose Muldowney.
20. James F Keogh.
21. Jim and Eleanor Byrne.
22. Kate Strecker.
23. Lathy and Laurence Enderson.
24. Kathy Caolan Murphy.
25. Laurence and Breege Kennedy.
26. Mairead Totterdell.
27. Marie Comiskey.
28. Mary Roberts.
29. Naomi Shipley.
30. Orla Cassidy.
31. Pamela and Fergus Redahan.
32. Peter and Mary Jenkinson.
33. Philip and Anne Cathcart.
34. Philip Halpin.
35. Richard and Brid Mossop & Others.
36. Richard and Hannah Chapman.
37. Rose and John Thorne.
38. Shane and Orla O'Gorman.
39. Tim and Colette McNichols.
40. Tony and Joan McLoughlin.

41. William and Catherine Early.
42. Winifred McDonald

Prescribed Bodies

43. An Taisce
44. DAU
45. Irish Water

Appendix 2

Documentation Submitted with the Application included inter alia:

- Cover Letter
- Letter of Consent from Dun Laoghaire Rathdown County Council dated 8th January 2020.
- Confirmation of Feasibility Statement from Irish Water dated 29th May 2019.
- Certificate of Design Acceptance from Irish Water dated 12th September 2019.
- Copy of Cover Letter to Prescribed Bodies.
- Copy of Cover Letter to Dun Laoghaire Rathdown County Council.
- Part V details.
- Planning Application Report and Statement of Consistency.
- Childcare Needs Assessment.
- Material Contravention Statement.
- Letter from Solicitor (plus enclosures) dated 28th November 2019.
- Legal Opinion.
- Drawing and plans (architectural/Engineering/landscaping/public lighting, etc)
- Housing Quality Assessment.
- Housing Schedule.
- Architectural Design Statement.
- Details of Permitted Scheme.
- CGI views and flythrough.
- Architectural Heritage Assessment.
- Archaeological Impact Assessment.
- Appropriate Assessment Screening Report.
- Ecological Impact Assessment.
- Traffic and Transportation Assessment.
- Flood Risk Assessment.
- Drainage Design Report.
- Landscape Design Report.
- Landscape and Visual Impact Assessment.
- Arboricultural Letter
- Arboricultural Assessment Report.
- Tree Constraints Plan.
- Arboricultural Impact Assessment.
- Tree Protection Plan.
- Sunlight, Daylight & Shadow Assessment.
- Photomontages.
- Site Lighting Report.
- Sustainability Report.
- Building Lifecyle Report.

- Construction Management Plan.
- Construction and Demolition Waste Management Plan.
- Construction Noise & Vibration Assessment.
- Waste Management Plan.