



An
Bord
Pleanála

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

Inspector's Report ABP-307415-20

Strategic Housing Development	200 no. apartments, crèche and associated site works.
Location	Lisieux Hall, Murphystown Road, Leopardstown, Dublin 18.(www.lisieuxhallshd.ie)
Planning Authority	Dun Laoghaire Rathdown County Council
Applicant	Ketut Ltd.
Prescribed Bodies	An Taisce; Department of Culture Heritage and the Gaeltacht; Irish Water; Transport Infrastructure Ireland.

Observer(s)

Alan and Caroline Murphy; Aidan O'Brein and Maeve O'Doherty; Alan Gilmer and Vivienne Byers; Austin and Susan Nolan; Bernie and Kevin Murtagh; Billy Wallace; Clare Maurer; David O'Gorman; Declan and Rita Cleary; Elaine Pennefather; Eoghan O'Sullivan and Emma Byrne; Frank Kennyl Gerry and Emma Craughwell; Helen and Ronan Hayes; John Hennessy; Keryn O'Carroll; Paul and Noleen Brien; Phil and Billy Wallace; Raymond McEntee; Roseacre Management Company; Shay and Ann Carroll; Suzanne Brennan; Thomas and Anne Maher; Tom and Ayda Lundon.

Date of Site Inspection

14th September 2020

Inspector

Una O'Neill

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1.0 Introduction

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

2.0 Site Location and Description

- 2.1. The subject site is located in the suburban area of Leopardstown, Co. Dublin, southwest of the M50 junction 14. The site is bounded to the east by Murphystown Way and the Luas green line, which runs along the opposite side of Murphystown Way, with the closest stop at Glencairn c. 220m to the north. The application site is bounded to the west by Kilgobbin Road, and to the north by Murphystown Road, which is a cul-de-sac at its western end with Kilgobbin Road. This road is used as an informal cyclist/pedestrian route to the Luas stop, as well as a vehicular access serving a small number of properties, including the application site.
- 2.2. The site, which is 1.19ha in area, comprises the northern part of the lands and entrance avenue associated with Lisieux Hall (protected structure) but not including same. Lisieux Hall is a nineteenth century private house with associated landscaped grounds, stables and a tennis court adjacent to the house. Lisieux Hall is bounded by the Ballyogen Road to the south. The application site is accessed via an existing gated vehicular entrance from Murphystown Road, with an avenue connecting from the entrance through the site to the house. The site and Lisieux Hall combined (1.85ha in area) can be viewed as an 'island site' enclosed by high stone/masonry walls (approx. 2.5m high) around their perimeter and bounded by roads. Most of this wall is stated to be modern, built when the boundary of the lands were changed on foot of surrounding roadworks and works to provide for the Luas line. The only original walls are indicated to be the wall to Kilgobbin Road, immediately behind Lisieux Hall and extending south along Kilgobbin Road including the back outer wall of the stable block.
- 2.3. The application lands currently function as an informal landscaped garden with a walled garden (comprising apple trees) on the eastern part of the application site. There are a substantial number of mature trees across the site, primarily along the access road, along the southern boundary and to the northeast. The topography on

the site generally falls from north to south, with the existing levels varying from a high of approximately 117m OD at the northern boundary to a low of approximately 110m OD at the southern boundary.

- 2.4. The wider area comprises predominantly suburban housing estates with more recently constructed/under construction higher density mixed apartment and housing developments along the Luas green line southeast of the site, namely Elmfield and Clay Farm developments, and to the northeast, a recently permitted development at Glencairn. To the northeast of the site, Murphystown Way crosses over the M50 linking into Leopardstown Road and the Central Park/Sandyford high density employment/residential area. East of the site, on the opposite site of Murphystown Way/Luas green line, is the Gallops residential estate, a traditional development of low density suburban housing. West of the site, on the opposite site of Kilgobbin Road, is Sandyford Hall, which is also a traditional development of low density suburban housing, with a small neighbourhood centre at the entrance. Approx 1.2 km to the southeast of the site is Leopardstown Shopping Centre (with Dunnes Stores retail anchor), north of which is a primary school and site of a permitted post-primary school.

3.0 Proposed Strategic Housing Development

- 3.1. The proposal, as per the submitted public notices, comprises the construction of 200 apartments in four blocks, including ancillary residential support facilities and a childcare facility, on lands to the north of Lisieux Hall (Protected Structure). The application site currently functions as a garden, with entrance avenue serving Lisieux Hall.
- 3.2. The following tables set out some of the key elements of the proposed scheme, as submitted by the applicant:

Table 1: Key Figures

Site Area Net	1.19 ha
No. of Residential Units	200 apartments, in 4 blocks, over a basement level
Density	168 units per hectare

Other uses – ancillary communal residential amenities/facilities	1 x meeting/function room (112 sqm) 1 x gym (220 sqm) 1 x concierge office facilities (35 sqm)
Childcare Facility	356 sqm creche, with capacity for c. 60 children, located within the ground floor of Block 3.
Public Open Space	Total Open Space = 4557 sqm; comprising a Central Open Space of 2685 sqm (22% of site area); and an Open Space to South with informal play areas for children of 1872 sqm (16% of site area). Residual Open Space around the perimeter of the development = 2103 sqm.
Height	Block 1 – 7 storeys Block 2 – 5 storeys Block 3 – 6 storeys Block 4 – 5 storeys
Part V	20 units
Plot Ratio	1.57
Site Coverage	36%

Table 2: Unit Mix

	Studio	1 bed	2 bed	3 bed	Total
Apartments	20	72	100	8	200
As % of total	10%	36%	50%	4%	100%

Table 3: Parking Provision

Car Parking	160 spaces at basement level; 11 spaces at grade.
Bicycle Parking	408 spaces at basement level; 24 at grade.

- 3.3. Two vehicular access points to the site are proposed from Murphystown Road. The primary vehicular access for the development will be directly to the basement car park at the northeast corner of the site, with a one-way access/egress system proposed in the area of the existing access point, serving 11 surface set-down car park spaces proximate to the ground floor childcare facility, concierge and gym uses. A new vehicular access point is proposed from Murphystown Way, at the southeast corner of the site, which will serve as a new replacement entrance to Lisieux Hall. This access will connect into the avenue as it exists at this point.
- 3.4. In term of site services, a new water connection to the public mains is proposed, together with a new connection to the public sewer. An Irish Water Pre-Connection Enquiry in relation to water and wastewater connections was submitted with the application, as required. It states that subject to a valid connection agreement being put in place and conditions listed, the proposed wastewater connection to the Irish Water network can be facilitated.
- 3.5. In addition to the architectural and engineering drawings, the application was accompanied by the following reports and documentation:
- Planning Statement (including response to ABP Opinion)
 - Statement of Consistency – Material Contravention Statement
 - Architectural Design Statement
 - Architectural Heritage Impact Assessment
 - Visual Impact Assessment
 - Daylight and Sunlight Report
 - Engineering Planning Report
 - Stage 1 Stormwater Audit

- Site Specific Flood Risk Assessment
- Traffic and Transport Plan
- Outline Travel Plan
- Quality Audit
- Arboricultural Report
- Ecological Impact Statement
- Screening for Appropriate Assessment
- Landscape Design Statement
- Housing Quality Assessment
- Energy and Sustainability Report
- Site Specific Apartment Management Strategy
- Outline Construction Management Plan
- Operational Waste Management Plan
- Outline Construction and Demolition Waste Management Plan
- Building Lifecycle Report

4.0 **Planning History**

D16A/0547 PL06D.248082 - On 3rd August 2017, ABP upheld a decision by DLRCC to grant permission for 69 residential units (17 no. houses and 52 no. apartments) in the grounds of Lisieux Hall. The permitted development comprises two no. 5 storey apartment blocks and 17 no. 3 storey houses. Stated density 56 units/ha. Parking provision of 86 spaces including 50 basement spaces and 9 surface parking spaces for the apartments and 27 no. spaces for the houses. The permitted development involved the retention of the existing walled garden at the development site.

Immediately South of Application Site (within same landholding):

ABP-307727-20 (D19A/0994) – Concurrent application before ABP (granted by DLR) for the construction of a single storey dwelling (316.4sqm) within the grounds of Lisieux Hall and to the east of the protected structure with access from Ballyogan Road to the south. Lisieux Hall is a Protected Structure (RPS No. 1662).

D19A/0110 - Permission refused for the construction of a two storey detached dwelling (414 sqm GFA) within the grounds of Lisieux Hall, with access from the existing access point from Murphystown Road to the north.

Northeast of the Site (approx. 200m from the site on opposite side of Murphystown Way at Glencairn):

ABP-302580-18 (SHD application) – Permission granted for 243 apartments and 98 houses.

Southeast of the Site (approx. 580m-1km from the site - Clayfarm development):

ABP-304288-19 (SHD application) – Permission granted for 192 apartments.

ABP-301522-18 (SHD application) – Permission granted for 927 residential units (572 apartments and 355 houses) and a neighbourhood centre with childcare facility and two retail units.

East of the Site (approx. 1km from the site):

ABP-304843-19 - Permission granted in relation to appeal on conditions for a post-primary school.

5.0 Section 5 Pre Application Consultation

5.1. Pre-Application Consultation

- 5.1.1. A section 5 pre-application consultation with the applicants and the planning authority took place at the offices of An Bord Pleanála on 3rd March 2020 (ref 306473) in respect of a proposed development of 200 apartments and crèche. The main topics discussed at the meeting were –

1. Design and layout of the proposed residential development, ancillary uses and associated open spaces.
2. Conservation issues. Impacts of the setting of the adjacent Protected Structure Lisieux Hall. Impacts of the Walled Garden.
3. Building height in the context of national and local policy.
4. Traffic and Transportation issues. Vehicular, cycle and pedestrian connections.
5. Car and cycle parking.
6. Drainage and flood risk.
7. A.O.B

Copies of the record of the meeting, the Inspector's Report, and the Opinion are all available for reference on this file.

5.2. Notification of Opinion

5.2.1. An Bord Pleanála issued a notification that it was of the opinion that the documents submitted with the request to enter into consultations would constitute a reasonable basis for an application for strategic housing development. The opinion referred to specific information that should be submitted with any application which can be summarised as follows –

1. Housing Quality Assessment with regard to the standards set out in the Sustainable Urban Housing Design Standards for New Apartments Guidelines for Planning Authorities. Clarification of the long term ownership and management of the development with regard to the requirements of SPPRs 7 and 8 of the Apartment Guidelines. In this regard, the applicant is also advised to submit a Building Lifecycle Report.
2. Notwithstanding that the documentation submitted would constitute a reasonable basis for an application, a rationale for proposed building height with regard to the Building Height Strategy set out as Appendix 9 of the Dun Laoghaire Rathdown County Development Plan 2016-2022 and the Urban Developments and Building Height Guidelines for Planning Authorities 2018. The applicant is to consider whether the development constitutes a Material

Contravention of the Building Height Strategy set out as Appendix 9 of the Dun Laoghaire Rathdown County Development Plan 2016-2022. If considered necessary, the applicant is to submit a Material Contravention Statement and to publish a Newspaper Notice in accordance with the requirements of section 8(1)(a)(iv) of the Planning and Development (Housing) and Residential Tenancies Act 2016.

3. Photomontages, contextual elevations, cross sections, visual impact analysis, shadow analysis and landscaping details to indicate potential impacts on visual and residential amenities, to include views from the wider area and adjacent residential properties, in particular Murphystown Road, Murphystown Way and the Kilgobbin Road. The VIA should include views of the development with both winter and summer vegetation and to include any plant or other structures on the roof of the proposed development, in order to give as accurate a representation as possible.
4. Cross sections to indicate levels of adjacent public roads and residential properties, access roads and open spaces within the proposed development and the attenuation pond and basement car park.
5. A detailed landscaping plan for the site which clearly sets out proposals for hard and soft landscaping including street furniture, SUDS measures and water feature (if provided) and play area / play equipment, also details of any existing trees / other vegetation / walls or other features to be retained within the proposed development and details of boundary treatments including along the road frontages of Murphystown Way, Murphystown Road, Kilgobbin Road and the new boundary with the remaining grounds of Lisieux Hall. Additional cross sections, CGIs and visualisations should be included in this regard.
6. Rationale for proposed play area provision with regard to relevant development plan policy.
7. Tree Survey, Arboricultural Report and Impact Assessment, to provide a detailed tree survey of the development site and assessment of the quality and quantity of the specimens to be removed, along with measures to protect trees to be retained during construction, to include consideration of potential

impacts associated with basement construction and impacts on the water table.

8. Ecological Impact Assessment, to consider in particular potential ecological impacts associated with the proposed removal of existing mature trees and other vegetation at the development site, to include impacts on any bat roosts / potential bat roosts and foraging corridors.
9. Architectural Heritage Impact Assessment to address matters raised in the report of DLRCC Conservation Officer dated 7th February 2020, to include a rationale for the proposed removal of the Walled Garden within the development site, along with potential impacts on the setting of the protected structure Lisieux Hall (RPS 1662), including boundary treatments and existing vegetation.
10. Daylight/Sunlight analysis, showing an acceptable level of residential amenity for future occupiers of the proposed development, which includes details on the standards achieved within the proposed residential units and in private and shared open spaces. The analysis should also consider potential overshadowing impacts on adjoining residential areas and on Lisieux Hall.
11. Statement of Compliance with the Design Manual for Urban Roads and Streets (DMURS).
12. Rationale for the proposed quantum of car parking to include consideration of the following matters:
 - Traffic and Transport Impact Assessment
 - Accessibility to public transport
 - Mobility Management
 - Ongoing car parking management within the development
 - Provision of car club spaces
 - Quantum of car parking to be dedicated to each of the uses within the development
 - Cycle parking provision.

13. Details of works to the public realm at Murphystown Road, to include provision of pedestrian and cycle facilities and vehicular access to the development including sight distances with regard to DMURS, also consents from relevant landowners if necessary.

14. Rationale for proposed childcare provision with regard to the relevant standards in the Childcare Facilities Guidelines for Planning Authorities and the Apartment Guidelines and to the existing availability of childcare facilities in the area.

15. Additional drainage details having regard to the report of DLRCC Drainage Planning Section dated 13th February 2020.

5.2.2. **Applicant's Statement of Response to ABP Opinion Issued**

A statement of response to the Pre-Application Consultation Opinion, as issued by the Board, was submitted with the application, as provided for under section 8(1)(iv) of the Act of 2016, which is briefly summarised as follows:

Item 1 – Housing Quality Assessment / SPPRs 7 and 8 / Building Lifecycle Report:

- The applicant states a Housing Quality Assessment (KMD Architecture) is enclosed setting out compliance with the Sustainable Urban Housing Design Standards for New Apartments Guidelines for Planning Authorities (March 2018).
- A Site Specific Apartment Management Strategy (Cushman & Wakefield) is enclosed. The applicant states that while not a “Specific BTR development” as per SPPRs 7 and 8 of the 2018 Apartment Guidelines, the scheme does include a range of features and communal amenities to facilitate its management as a rental development under single ownership (which is the applicant’s current intention) rather than for private sale. It is stated that the applicant is mindful of the need to consider the potential of apartments to be sold on the open market and subject to MUDs legislation and procedures.
- A Building Lifecycle Report (KMD Architecture) has been submitted.

Item 2 – Material Contravention:

- The applicant's response states that Dun Laoghaire Rathdown County Council considers the proposed development is a material contravention of the development plan in relation to height. The applicant asks An Bord Pleanála to grant permission for the proposed development in accordance with Section 37(2)(b)(ii), (iii) and (v) of the Planning and Development Act 2000 (as amended).
- SPPR 3 of the Urban Development and Building Heights Guidelines for Planning Authorities 2018 promotes building height subject to adherence to criteria. The applicant states the criteria have been considered and that the increased height proposed as part of the current scheme represents proper planning and sustainable development and is in accordance with National Policy.
- The applicant states that the Architectural Design Statement (KMD Architecture) and the Visual Impact Assessment (ARC Architectural Consultants) provides further justification and support for the building heights proposed in this development.

Item 4 – Photomontages/Contextual Elevations and Sections etc.:

- A Visual Impact Assessment (VIA) (ARC Architectural Consultants) is enclosed.
- Contextual Elevations and Cross Sections (KMD Architecture) are also enclosed with the application. The contextual elevations also show how the development is viewed from outside the site and show the surrounding roads, the Luas line and the surrounding predominantly two storey residential development. Reference is made to Drawing No's A12-501, A12-502, A13-201, A13-202 and A13-203.
- The applicant's submission considers the development is well setback from Lisieux Hall and as the site is an island site, any impacts on the residential amenity of any existing residential development surrounding the site, will be minimal.
- The Landscape Design Statement (Bernard Seymour Landscape Architects) shows the boundary treatments and works to the public realm. It is stated that the boundary walls will be reduced in height to the eastern, western and north western boundaries to open up the development to the surrounding streetscape improving the relationship with the street, whilst also providing passive surveillance.

Item 5 – Cross Sections / Levels

- Cross Sections (KMD Architecture), showing the levels of adjacent public roads and residential properties as well as access roads and open space within the proposed development, are submitted with this application.
- This is detailed further in the Architectural Design Statement (KMD Architecture) – Section 1.04.3 (Site Analysis)
- Reference to Drawing No's A13-201, A13-202 and A13-203.

Item 5 – Landscaping Plan

- Landscape Drawings and a Landscape Design Statement (Bernard Seymour Landscape Architects) are included with this application.
- While not within the red line of the current application site, it is stated that the applicant/ owner of Lisieux Hall can confirm that it is their intention to undertake additional tree planting along the boundary with the SHD site and this will further help to screen the main house from the remainder of the site to the north which will become more embedded in its new setting as the years progress.

Item 6 – Rationale for Play Area

- The rationale for the proposed play area is outlined further in the Landscape Design Statement.

Item 7 – Arboricultural Assessment

- A Tree Survey and Arboricultural Report (The Tree File Ltd.) are enclosed. The tree survey identifies the trees which will be removed and retained, as well as measures proposed to aid their protection, where relevant. The impact of the basement, roads, drainage and lighting proposals on the trees is also addressed in the report.
- The proposed development includes a significant tree planting and landscaping scheme which will mitigate the loss of existing trees that are not feasible to retain.

Item 8 – Ecological Impact Assessment

- An Ecological Impact Assessment (Openfield Ecological Services) is enclosed which looks at the potential impact of the proposed development on various flora and fauna on the site, including bats. A bat survey was carried out by Altemar, which is included as an appendix to the Ecological Impact Assessment. The Ecological

Impact report has been informed by both the bat survey and the Tree Survey and Arboricultural Report (The Tree File Ltd.). After mitigation, it is stated that no residual effects are likely to arise to biodiversity, as a result of the development and the impact of the proposed development on bats will be minor.

Item 9 – Architectural Heritage Impact Assessment

- An Architectural Heritage Impact Assessment (Arc Architectural Consultants) is enclosed. It is predicted that the development will have no direct impacts on the heritage of the house or its associated stable yard. The house will be severed from the lands to the north, where the proposed development will be located, resulting in a significant change in the setting of the house. However it is stated that the very extensive surrounding suburban development has already seriously compromised the heritage of the setting of the house.

Item 10 – Daylight/Sunlight Analysis

- A Daylight and Sunlight Report (Arc Architectural Consultants) is enclosed and shows that the proposed development is provided with an acceptable level of residential amenity for any future occupiers. It details the standard achieved in both the units themselves and the private and shared open spaces as well as any potential overshadowing impacts on adjoining residential areas and Lisieux Hall itself.

Item 11 – DMURS

- A Statement of Compliance with the Design Manual for Urban Roads and Streets (DMURS) is enclosed as part of the Engineering Planning Report (Muir Associates) enclosed.

Item 12 – Traffic and Transportation

- The rationale for the proposed quantum of car parking is addressed in the Outline Travel Plan (Muir Associates).

Item 13 – Murphystown Road Public Realm

- Public Realm Works are considered to three areas – the ‘front door’ to the development including the entrance with new public footpath; eastern section of Murphystown Road towards the Murphystown Way and Glencairn Luas Stop will be

provided with improved footpaths and improved landscaping of the public open space area outside the site boundary; western end of Murphystown Road which is now a cul-de-sac is increasingly an important desire line for pedestrians and cyclists moving between Kilgobbin Road/ Sandyford Hall and Murphystown Way/ Glencairn Luas Stop. A raised platform incorporating pedestrian crossings and enhancements for cyclists is proposed between the two existing sets of bollards and can be undertaken as “off-site” improvements related to the proposed development. It is stated that the applicant is happy to carry out these works in the public area subject to agreement with DLRCC and a condition to this effect.

- These works are detailed in the Engineering Drawing - D1853-C-14 Proposed Vehicular and Pedestrian Access from Murphystown Road.
- Refer also to the Architectural Design Statement (KMD Architecture) –Page 54; the Landscape Design Statement (BSLA); and the taking in charge drawing.

Item 14 – Childcare Facilities

- A crèche of 356sq.m is proposed as part of the application (c. 60 children capacity), which is considered to exceed the requirement for the development itself and will fulfil a function for the wider community.

Item 15 – Drainage

- Drainage details have been agreed with the DLRCC Planning Section and are included in the Engineering Planning Report.

6.0 Relevant Planning Policy

6.1. Section 28 Ministerial Guidelines

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

- Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities (2009) and the accompanying Urban Design Manual: A Best Practice Guide (2009)

- Sustainable Urban Housing, Design Standards for New Apartments, Guidelines for Planning Authorities (2018)
- Urban Development and Building Height Guidelines for Planning Authorities (December, 2018)
- Design Manual for Urban Roads and Streets (December 2013), as amended
- Architectural Heritage Protection – Guidelines for Planning Authorities (2011)
- Childcare Facilities – Guidelines for Planning Authorities 2001 and Circular PL3/2016 – Childcare facilities operating under the Early Childhood Care and Education (ECCE) Scheme.
- The Planning System and Flood Risk Management (including the associated Technical Appendices) (2009)

6.2. National Policy

Project Ireland 2040 - National Planning Framework

- 6.2.1. A key element of the NPF is the distribution of future growth between the regions, with National Policy Objective (NPO) 1a, 1b and 1c targeting the scale of population and employment growth for each of the three regions in Ireland, and NPO 2 a, b and c focussed on accessible centres of scale within the regions.
- 6.2.2. National Policy Objective 3 (a, b and c) relates to Compact, Smart, Sustainable Growth, as one of the key national strategic outcomes of the NPF is to deliver more compact growth in the development of settlements of all sizes across the regions, moving away from development sprawl. The NPF states that getting the physical form and location of future development right offers the best prospects for unlocking regional potential.
- 6.2.3. This approach is summarised in Table 2.1 ‘The NPF at a Glance: Targeted Pattern of Growth to 2040’, which sets out the top NPOs 1, 2 and 3. Under NPO 2, the table indicates that Regional Spatial and Economic Strategies are required to set out a strategic development framework for each region.
- 6.2.4. The following National Policy Objectives are noted:

- NPO 3(d): Deliver at least 50% of all new homes that are targeted in the five Cities and suburbs of Dublin, Cork, Limerick, Galway and Waterford, within their existing built-up footprints.
- NPO 11: In meeting urban development requirements, there will be a presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities, towns and villages, subject to development meeting appropriate planning standards and achieving targeted growth.
- NPO 13: In urban areas, planning and related standards, including, in particular, height and car parking will be based on performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth. 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.
- NPO 27: Ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments, and integrating physical activity facilities for all ages.
- NPO 33: Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.
- NPO 35: Increase residential density in settlements, through a range of measures including reductions in vacancy, reuse of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

6.3. Regional Policy

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

- 6.3.1. The RSES provides a development framework for the region through the provision of a Spatial Strategy, Economic Strategy, Metropolitan Area Strategic Plan (MASP), Investment Framework and Climate Action Strategy.
- 6.3.2. The Dublin MASP is an integrated land use and transportation strategy for the Dublin Metropolitan Area, which seeks to manage the sustainable and compact growth of the Dublin Metropolitan Area.

6.3.3. The strategy for the sequential development of the metropolitan area is focussed on:

- Consolidation of Dublin City and suburbs
- Key Towns of Swords, Maynooth and Bray
- Planned development of strategic development areas in Donabate, Dunboyne, Leixlip and Greystones

6.3.4. To achieve ambitious compact development targets of at least 50% of all new homes within or contiguous to the existing built up area in Dublin and 30% in other settlements, the MASP identifies strategic residential, employment and regeneration development opportunities on the corridors along with the requisite infrastructure investment needed to ensure a steady supply of sites in tandem with the delivery of key public transport projects as set out in the NDP.

6.3.5. Strategic development corridors are identified including the City Centre within the M50; North-South Corridor (DART expansion); North-West Corridor (Maynooth/Dunboyne line and DART expansion); Southwest Corridor (Kildare Line, DART expansion and Luas red line); and Metrolink – LUAS Corridor (Metrolink, LUAS greenline upgrades).

6.3.6. The site is located along the Luas greenline, which is a ‘strategic development corridor’.

6.3.7. The following Regional Policy Objectives (RPOs) are noted:

RPO 5.3: Future development in the Dublin Metropolitan Area shall be planned and designed in a manner that facilitates sustainable travel patterns, with a particular focus on increasing the share of active modes (walking and cycling) and public transport use and creating a safe attractive street environment for pedestrians and cyclists.

RPO 5.4: Future development of strategic residential development areas within the Dublin Metropolitan area shall provide for higher densities and qualitative standards as set out in the ‘Sustainable Residential Development in Urban Areas’, ‘Sustainable Urban Housing: Design Standards for New Apartments’ Guidelines and ‘Urban Development and Building Heights Guidelines for Planning Authorities.’

RPO 5.5: Future residential development supporting the right housing and tenure mix within the Dublin Metropolitan Area shall follow a clear sequential approach, with a primary focus on the consolidation of Dublin and suburbs, and the development of Key Metropolitan Towns, as set out in the Metropolitan Area Strategic Plan (MASP) and in line with the overall Settlement Strategy for the RSES. Identification of suitable residential development sites shall be supported by a quality site selection process that addresses environmental concerns.

6.4. Local Planning Policy

Dun Laoghaire-Rathdown County Development Plan 2016-2022

- Advisory note, dated March 2016, states ‘The ‘Specific Planning Policy Requirements’ set out in the DoECLG Apartment Guidelines take precedence over the Dun Laoghaire-Rathdown standards and specifications as set out in Section 8.2.3.3 of the 2016 – 2022 County Development Plan’.
- The site is governed by Zoning Objective A ‘To protect and/or improve Residential Amenity’. Residential development is ‘permitted in principle’ under this zoning objective while childcare service is ‘open for consideration’.
- Lisieux Hall is a protected structure, RPS no. 1662.
- The site adjoins the boundary of the Ballyogan and Environs Local Area Plan 2019-2025, but is not within it.
- Chapter 2 – Sustainable Communities Strategy: the Council is required to deliver c.30,800 units over the period 2014 - 2022, through three strands, namely: “increasing the supply of housing; ensuring an appropriate mix, type and range of housing; and, promoting the development of balanced sustainable communities.”
- Section 2.1.3.3 states:

Where a site is located within circa 1 kilometre pedestrian catchment of a rail station, Luas line, BRT, Priority 1 Quality Bus Corridor and/or 500 metres of a Bus Priority Route, and/or 1 kilometre of a Town or District Centre, higher densities at a minimum of 50 units per hectare will be encouraged.

Also:

In some circumstances higher residential density development may be constrained by Architectural Conservation Areas (ACA) and Candidate Architectural Conservation Areas (cACA) designations, Protected Structures and other heritage designations. To enhance and protect ACA's, cACA's, Heritage Sites, Record of Monuments and Places, Protected Structures and their settings new residential development will be required to minimise any adverse effect in terms of height, scale, massing and proximity.

- Policy RES 3: Residential Density

It is Council policy to promote higher residential densities provided that proposals ensure a balance between the reasonable protection of existing residential amenities and the established character of areas, with the need to provide for sustainable residential development.

- Policy RES4: Existing Housing Stock and Densification

It is Council policy to improve and conserve housing stock of the County, to densify existing built-up areas, having due regard to the amenities of existing established residential communities and to retain and improve residential amenities in established residential communities.

- Policy RES7: Overall Housing Mix

It is Council policy to encourage the establishment of sustainable residential communities by ensuring that a wide variety of housing and apartment types, sizes and tenures is provided within the County in accordance with the provisions of the Interim Housing Strategy.

- Chapter 4 – Green County Strategy. Section 4.2 considers policies on open space and recreation.

- Policy OSR5: Public Open Space Standards:

It is Council policy to promote public open space standards generally in accordance with overarching Government guidance documents 'Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities' (2009) and the accompanying 'Urban Design Manual - A Best Practice Guide'.

- Chapter 6 – Built Heritage Strategy. Section 6.1.3. considers Architectural Heritage.

- Policy AR1: Record of Protected Structures:

It is Council policy to:

i. Include those structures that are considered in the opinion of the Planning Authority to be of special architectural, historical, archaeological, artistic, cultural, scientific, technical or social interest in the Record of Protected Structures (RPS).

ii. Protect structures included on the RPS from any works that would negatively impact their special character and appearance.

iii. Ensure that any development proposals to Protected Structures, their curtilage and setting shall have regard to the Department of the Arts, Heritage and the Gaeltacht 'Architectural Heritage Protection Guidelines for Planning Authorities' (2011).

iv. Ensure that new and adapted uses are compatible with the character and special interest of the Protected Structure.

- Policy AR8: Nineteenth and Twentieth Century Buildings, Estates and Features.

It is Council policy to:

i. Encourage the appropriate development of exemplar nineteenth and twentieth century buildings and estates to ensure their character is not compromised.

ii. Encourage the retention of features that contribute to the character of exemplar nineteenth and twentieth century buildings and estates such as roofscapes, boundary treatments and other features considered worthy of retention.

- Policy UD6: Building Height Strategy

It is Council policy to adhere to the recommendations and guidance set out within the Building Height Strategy for the County.

- Appendix 9 Building Height Strategy: The site is located in a 'Residual Suburban Area not included within Cumulative Areas of Control', for which policy is set out in

section 4.8 of Appendix 9. It adjoins the boundary of the Ballyogan and Environs Local Area Plan 2019-2025, however no LAP specifically applies to the site. Section 4.8 of the Building Height Strategy states that a general recommended height of two storeys will apply at such locations. Apartment developments to a maximum of 3-4 storeys will be permitted at appropriate locations, e.g. on prominent corner sites, on large redevelopment sites or adjacent to key public transport nodes, providing they have no detrimental effects on existing character and residential amenity. This maximum is to apply subject to 'upward modifiers' and 'downward modifiers'. A development must meet more than one 'upward modifier'. Upward modifiers that may apply at the subject site:

- Urban design benefits
- Major planning gain, e.g. significant improvements to the public realm
- Development would contribute to the promotion of higher densities in areas with exceptional public transport accessibility (areas within 500m walkband on either side of the Luas corridor, 100m walkband on either side of a QBC).
- The following 'downward modifiers' may apply at the development site:
 - Residential living conditions through overlooking, overshadowing, or excessive bulk and scale.
 - The setting of a protected structure.
- Section 4.8 states:

There will be occasions where the criteria for Upward and Downward modifiers overlap and could be contradictory ... In this kind of eventuality a development's height requires to be considered on its own merits on a case-by-case basis. The presumption is that any increase or decrease in height where 'Upward or Downward Modifiers' apply will normally be one floor or possibly two.
- The site is within an area subject to a Section 49 Supplementary Development Contribution Scheme Luas B1.

6.5. Designated sites

6.5.1. The site is not located within or adjoining a European site.

6.6. **Applicant's Statement of Consistency**

6.6.1. The applicant has submitted a Statement of Consistency as per Section 8(1)(iv) of the Act of 2016, which indicates how the proposal is consistent with the policies and objectives of section 28 guidelines and the relevant Development Plan.

6.7. **Applicant's Material Contravention Statement**

6.7.1. The applicant has submitted as part of its Statement of Consistency, a Material Contravention Statement. The statement sets out the justification for the proposed residential development with specific regard to the proposed height, which ranges from 4-7 storeys, and materially contravenes the Dun Laoghaire Rathdown County Development Plan 2016-2022:

- The development is a strategic development site and is consistent with the emerging pattern of development in the Stepside/ Ballyogan area. There are a number of other developments completed, granted permission and at planning stage in the general area where the 7 storey height limit has been exceeded. Therefore, the development is considered to be in keeping with the pattern of development in the area and other permissions granted since the making of the Development Plan in 2016 and since the preparation of the Stepside Action Area Plan in 2000. The Landscape and Visual Impact Assessment submitted with this application also demonstrates that the proposed height will be in keeping with the current urban context and the setting of Lisieux Hall (protected structure).
- SPPR 3 of the Urban Development and Building Heights Guidelines for Planning Authorities 2018 promotes building height subject to adherence to criteria. The criteria are considered with reference to the proposed development and demonstrate that the increased height proposed as part of the current scheme represents proper planning and sustainable development and is in accordance with National Policy.
- Rebuilding Ireland – The Government's Action Plan on Housing and Homelessness which seeks to improve the viability of housing construction and ensure that an average of 25,000 homes are produced every year in the period to 2021.

- The National Planning Framework 2040 includes objectives that encourage increased residential densities through a range of measures including increased building heights (Objective 35).

7.0 Observer Submissions

- 7.1. In total 29 submissions were received. The submissions were primarily made by or on behalf of local residents.
- 7.2. The submissions received may be broadly summarised as follows, with reference made to more pertinent issues within the main assessment:

Density, Design and Layout

- Development's scale and density is completely out of context with the surrounding area.
- Density and height are excessive.
- Density of 160 units per hectare more appropriate to a central business district new heavy rail infrastructure in the city centre, is not appropriate or in keeping with the outer suburban 2 storey/protected structure character of the area.
- Development would adversely affect the character of the area and is not appropriate on an outer suburban site next to a protected structure.
- Scale of development is out of character with the surrounding built environment.
- Rationale for granting permission for the proposed development despite materially contravening the Development Plan is flawed.
- Proposal is not in accordance with the design principles contained in the Sustainable Residential Development Guidelines.
- Existing permission for development on site more adequate than the subject application.
- Lack of Local Area Plan or Masterplan guiding the development of the subject site.
- Insufficient storage space provided in the apartments.

- Architectural Design Statement address criteria in the urban design manual, however, do not agree with how criteria addressed.
- Design is not in keeping with the vernacular built form.
- Lack of open space proposed.

Material Contravention

- Proposal is a material contravention of the height policy in the development plan.
- Material contravention of policy RES3, section 8.3.2 and 8.2.3.4.
- Claim that 7/8 storey high buildings in the wider area is not backed up by reference numbers or justifiable in this area. A 7 storey development is not part of permitted or emerging pattern of development in the immediate vicinity of the site. Precedents quoted are not located next to a protected structure.
- SPPR 3 and associated criteria not met:
 - SPPR3 requires that an applicant shall demonstrate to the satisfaction of ABP a number of criteria. There is no evidence in the Statement of Consistency, the Planning Statement, or in the Traffic and Transport Statement that there is capacity/high capacity in the bus routes or Luas operating in the area.
 - As per the O'Neill vs ABP judgement, SPPR 3 and criteria 3.2 requires the area to be well served by existing public transport, not planned public transport.
 - The site does not properly respond to the overall natural environment as per section 3.2 of the guidelines, as trees are being removed to facilitate the development.
 - The proposal does not make a positive contribution to the neighbourhood – it is demonstrated in the contiguous elevational drawing, the scale and massing of the proposed development is completely out of character with development in the immediate vicinity of the site including at Leopardstown Heights, Tapton and Lisieux Hall.
 - RES3 of the development plan is contravened which requires higher residential densities are supported provided that proposals ensure a balance

between reasonable protection of residential amenities and the established character of the area. NPF Objective 35 does not support such a higher density.

- Inconsistent with Sustainable Residential Development Guidelines as does not respect the height and massing of existing residential units.
- This is a transitional zonal area, as per section 8.3.2 of the development plan and abrupt transitions in height are not supported. Proposal for 7 storeys adjoining a park is an abrupt transition, therefore materially contravenes development plan.
- Materially contravenes development plan in terms of parking.
- Doesn't respect height or massing of adjoining area and not in keeping with the existing vernacular, therefore materially contravenes section 8.2.3.4 and policy UD6 of the development plan.

Impact on Residential Amenity

- Proposed development will have an overbearing impact on neighbouring properties.
- Subject scheme will cause overlooking and materially reduce sunlight enjoyed by properties in the vicinity.
- No photomontage has been submitted from Glencairn Heath.
- Overbearing impact on Glencairn Heath by 7 storey high block, reduction in privacy due to balconies, and loss of evening sunlight, particularly to numbers 8-16 Glencairn Heath.
- Concern relating to increased shade impact on surrounding properties and lack of open space.
- Further locations should be considered for the Visual Impact Assessment – Sandyford Hall Place, Sandyford Hall Lawn and Sandyford Hall Green etc. Visual impact will be significant from these locations. Sandyford Hall is at a lower level than the application site which will result in an increased impact. Block 3 at 6 storeys will occupy a prominent corner overlooking the estate.
- Visual impact on the Gallops will be the equivalent of an 8 storey block, where 7 storey block is proposed. Image in visual impact assessment is not representative of

impact as taken from 100m down Glencairn Road, which is 150m from the site. Greater impact when viewed from Glencairn Heath and Glencairn View.

- The Roseacre estate comprises two storey dwellings. The proposed 5 to 7 storey blocks will have a negative impact on local living conditions due to their size and scale.

Traffic and Transportation

- LUAS and bus services already at capacity and LUAS cannot continue to be used as an upward modifier when the Luas and bus service is already at capacity without Glencairn SHD, Clay Farm and Cherrywood developments, to name a few major developments coming on stream.
- The park and ride for the Luas in proximity to the site is temporary and this site will also be developed.
- Impact on pedestrians and cyclists of number of cars exiting/entering on the old Murphystown Road.
- Luas is strained at peak times and is unable to cope with the existing demand.
- Risk for pedestrian and cyclists due to the traffic generated by the development.
- Proposed development will worsen current traffic conditions.
- Traffic Impact Assessment is out of date. Report is dated May 2020 but the data was recorded in May and August 2018. The data has not been updated and it is noted that car use is at its heaviest in winter and when poor weather is forecast. As assessment cannot offer a true picture if it is not carried out to record the worst case scenario. In 2018 three further developments in the area were being constructed which were not taken account of – 243 units at Belmont and at Elmfield. Clay Farm was taken into account. There is an infrastructural deficit in terms of road capacity and impact due to congestion on junctions and feeder road.
- Disingenuous to dismiss peak time traffic congestion as something that no road system is designed to handle without queueing. There is a very real and growing problem with peak time traffic flow management and its associated environmental consequences.

- Traffic Impact Assessment does not appear to have taken account of permitted 243 unit development permitted by the Board (PL06D.302580) 200m to the north west, which includes a vehicular access point to the Murphystown Way. This is significant as the Link Capacity Assessment at section 4.3 of the TTA specifically refers to Murphystown Way.
- Entrance should be relocated to Murphystown Way with a signalised junction put in place.
- Provide evidence that Luas and Bus network have confirmed there is capacity for additional commuters and that a thorough traffic assessment has been undertaken.
- 44 bus only runs once an hour. The 47 is also infrequent.
- Insufficient parking will give rise to traffic congestion and traffic hazards. Parking standards do not comply with the development plan. Development breaches development plan parking standards.
- Lack of parking will result in parking in adjoining estates. Impact of parking already from commuters and people working in Central Park, Sandyford Business District.
- Site egress should be on the other side of the application site.
- Adequate infrastructure has to be available before current development can be commenced.
- Insufficient car parking provision for the proposed development.
- Proposed Murphystown Way access will only add to the existing congestion and should be removed.
- Insufficient parking provision will give rise to traffic hazards.
- Junction Capacity Assessment included in the Traffic & Transport Assessment is flawed.
- Confirmation is required of whether visibility at the entrance to the basement car park meets regulations.
- Insufficient parking provided for visitors.

- Area from Sandyford Hall roundabout to Murphystown Road roundabout should be pedestrianised in the interest of pedestrians' and cyclists' safety.
- Survey of public transport uses needed to demonstrate that there is sufficient capacity in the transport network.
- Construction noise and impacts from rock drilling as site is over a solid granite foundation, and resultant impacts in terms of noise pollution, air pollution etc.

Natural Heritage

- Removal of Walled Garden, trees and most of the perimeter wall will detract from the current sylvan setting.
- Removal of high quality trees on the site boundary has occurred recently.

Social Infrastructure

- Lack of schools to cater for an increase in population.
- Confirmation is required that adequate school and childcare capacity is available in the area.
- While sites have been identified for schools in the area, it is currently chronically underserved and only one secondary school which is due to open in 2021. The numbers of teenagers who currently have to travel outside this suburbs to gain access to secondary schools has not been factored into the traffic analysis.

Other Matters

- Tight timeframe has been given to lodge an observation.
- The proposed development does not comply with the types of development specified in the SHD legislation.
- Application is invalid as it does not show distances to boundaries on the site plan, drawing no A10-12 Revision B. Any decision by the Board to grant permission would be ultra vires, irrational and/or in error in law.
- Request that all matters raised in the observation submitted Leopardstown Heights Residents Association is taken into account and addressed by the Board, as per Balz v. An Bord Pleanla.

8.0 Planning Authority Submission

8.1. Overview

8.1.1 In compliance with section 8(5)(a) of the 2016 Act, Dun Laoghaire Rathdown County Council submitted a report of its Chief Executive Officer in relation to the proposal. This was received by An Bord Pleanála on 18th August 2020. The report notes the planning history in the area, site description, proposal, policy context, planning assessment, summary of observer submissions, and summary of views of the relevant elected members. The submission includes several technical reports from relevant departments of Dun Laoghaire Rathdown County Council. The Chief Executive's Report concludes that it is recommended that permission be granted. The CE Report from Dun Laoghaire Rathdown County Council is summarised hereunder.

8.1.1. Summary of Inter-Departmental Reports

- Drainage Planning Report: No objection, subject to conditions.
- Housing Report: No objection, subject to condition.
- Conservation Officer: The proposed development will have a detrimental impact on the character and setting of the protected structure. The proposal for screening of the neighbouring site is insufficient in terms of mitigation.
 - The scale, height and massing of the apartment blocks is disproportionate to the original two-storey building and would not integrate in a satisfactory manner with the existing Protected Structure. In particular, issue with Blocks 2 and 4 which are 5-storey blocks, with the 4th floor set back. The impact is evident from the VIA view 4.
 - The proposed scheme fails to respect the significant built heritage and landscape features of the site with particular regard to the walled garden.
 - The conservation officer report states the proposed development does not create a 'sense of place' and that it is considered that the design, scale, height and massing of the proposed development within the curtilage of Lisieux Hall, would materially and adversely affect the character and setting of the protected structure, would be contrary to the provisions of the County

Development as set out above and “Architectural Heritage Protection Guidelines for Planning Authorities”, with particular regard to Chapter 13: Curtilage and attendant grounds.

- Environment Section: No objection subject to condition.
- Public Lighting: Discrepancy in reports – two lighting reports submitted.
- Transport Planning Report: Additional details required in relation to Murphystown Road boundary interface with the public road. 171 parking spaces proposed, however, a total of 204 to serve the apartments and crèche would be acceptable. Quantity of cycle parking acceptable, but quality of provision does not meet DLRCC standards for cycle parking and the access ramp gradient between basement areas is too steep. It is recommended that number of short stay cycle parking spaces are increased at ground level to 40 spaces. Any access ramps used by cyclists should not exceed 7% (1 in 14). 10% of bicycle provision should cater for larger footprint cargo bikes.
- Parks Report: Refusal recommended. Existing external road development works has already had a negative impact on the mortality of existing Trees for this site. Likelihood of Tree loss is high in post developed years given the site design, size, scale in close proximity to existing Trees. Refer to drawing ‘Lisieux Tree Protection Plan’. Proposal unavoidably will have long-term impacts on existing Trees due to the proximity of intruding engineered impacts e.g. dwelling and services from below ground level excavation works on existing Trees and Landscape open space. Given the scale, age and nature of the sites existing Trees, the intrusion of these proposed works to the underlying soil capillary fringe for long-term tree survival has not been provided. Application is absent of any 3D visual analysis (source-pathway-receptor) to demonstrate the impacts on existing Trees and vulnerability of rising groundwater onto proposed Landscape plan post development.

8.1.2. **Summary of View of Elected Members:**

Parking/Access

- Insufficient car parking provision in light of studio and 1-bedroom units proposed.
- A drop-off area for the crèche is required.
- No bicycle spaces provided for parents and crèche staff.

- Bicycle parking at basement level is inadequate, all bicycle parking should at surface level.

Height/Density

- The proposed 7-storey building exceeds the Development Plan parameters and should not be permitted.
- The proposed height is excessive.
- The provision of 7-storeys within a tight site creates a negative visual impact on the streetscape.
- The proposal for 7-storeys is out of character with the surrounding area.
- The proposed density is excessive as the existing infrastructure cannot take it.

Architectural Heritage

- The existing Walled Garden within the site should be retained and protected.

Impact on Transport Infrastructure

- Existing parking facilities in the area already constrained.
- There is uncertainty around public transport use in current pandemic environment.

8.1.3. **CE Report - Planning Analysis**

- Principle of development is considered acceptable.
- Density is considered acceptable having regard to national policy, development plan policy, and proximity to public transport, in addition to context of sylvan character and protected structure.
- Impacts on architectural heritage:
 - The proposed layout provides a buffer area between the southernmost apartment blocks (Blocks 2 and 4) and the boundary with the south site, where the protected structure is located. Specifically, Block 2 and Block 4 are set back c. 18.7 m and c 11.4 m, respectively, from the south boundary. On balance, it is considered that the separation distances proposed are sufficient

and respectful with the setting of the Protected Structure. Notwithstanding, further impacts on the Protected Structure caused by the proposed height and massing of the proposed development will be discussed in the relevant section.

- The walled garden was assessed by ABP as part of a previous planning application on this site. It was, and is, considered that the retention and restoration of the Walled Garden would make a positive contribution to the character of the area. The subject scheme comprises the complete removal of the Walled Garden. The Architectural Heritage Impact Assessment submitted by the Applicant states that the cessation of use as a garden for the Walled Garden has already been established by the live planning permission on site. It also notes that the walls that form the current Walled Garden have been significantly altered through the years with only very limited sections retained of the walls that form the original Walled Garden, thus the original Walled Garden has already been much altered.
- With regard to the current driveway to access Lisieux Hall from Murphystown Road, the applicant states it is not a historic driveway and does not match the original alignment, which indeed served a different house. Also, the existing screen walls, gate piers and gates are relatively modern and do not form part of the original setting of the Protected Structure. Thus, the Applicant submits that the removal of the existing entrance to create the new vehicular entrance to the proposed development will not negatively impact the character of the Protected Structure. Whilst it is noted that the excision of the north lands for the provision of residential development comprises a severance of the curtilage of the Protected Structure and therefore a negative impact on the PS, it is considered that the principle of such intervention was established by the live permission and therefore its consequences have been considered acceptable.
- On the basis of the information provided by the Applicant with regards to the heritage value of the elements that will be directly affected by the proposed development, and while it will be for the board to ultimately weigh the information before it on this issue, it is considered that the proposed removal of the Walled Garden and the proposed alterations to the existing

entrance and driveway from Murphystown Road, are acceptable in this instance.

- Building heights:

- Block 4 is a 5—storey block, with the 4th floor (penthouse) set-back from the building line. The separation distance from the Protected Structure is considered adequate, however, it is considered that due to its height and the site's profile with the Protected Structure located on lower ground, Block 4 has a dominant presence over Lisieux Hall. This is evident from the Verified Views submitted from the forecourt of the Protected Structure, where Block 4 has an imposing and overbearing presence. The impacts are particularly acute in the winter views. It is noted that the image is taken from some distance from the front of the Lisieux Hall house. Thus, it is anticipated that the presence of Block 4 from the immediate front of the Protected Structure is likely to be more oppressive. It is important to consider these impacts both in isolation but also cumulatively with other impacts on the Protected Structure that will be caused by the proposed development and have been discussed previously, principally the severance of a large part of the existing curtilage, and the complete removal of the Walled Garden. Whilst these interventions have previously been deemed acceptable on the basis that the anticipated level of impact on the Protected Structure will be moderate, it is considered that when the visual impact of Block 4 is added, the cumulative level of change that Lisieux Hall will be subject to will be material and negative, and to an extent that the character of the Protected Structure will be detrimentally affected.

- It is important to consider these impacts both in isolation but also cumulatively with other impacts on the Protected Structure that will be caused by the proposed development and have been discussed previously, principally the severance of a large part of the existing curtilage, and the complete removal of the Walled Garden. Whilst these interventions have previously been deemed acceptable on the basis that the anticipated level of impact on the Protected Structure will be moderate, it is considered that when the visual impact of Block 4 is added, the cumulative level of change that Lisieux Hall will be subject to will be material and negative, and to an extent that the character of the Protected Structure will be detrimentally affected.

- It is not considered that additional planting on the site to the south will have a meaningful contribution to address this issue, the reason being that only planting of certain size and characteristics could provide an adequate level of screening, which needs to be maintained and renewed when necessary in the mid and long term. It is noted that the area where significant planting will be required will be outside the control of the Planning Authority and a Condition requiring landscape screening to be provided effect is not considered adequate given the difficulty to enforce. Accordingly, the suggestion of additional planting does not address the Planning Authority's concerns.
- It is considered that a 3-storey block with an additional storey set back from the main building line, would be a more appropriate built form for Block 4 having regard to its relationship with the Protected Structure. The Board is requested to include a Condition to that effect in the event of a grant of permission.
- Residential amenities:
 - Privacy and Overlooking - the separation distances between the eastern blocks (Block 1 and 2) and also the separation between the western blocks (Blocks 3 and 4) above the pedestrian accesses from Murphystown Way and Kilgobbin Road, respectively, are stated to be c.5.9m. Blinkers are proposed between opposing windows at ground floor level, both between Blocks 1 and 2; and Blocks 3 and 4. At upper levels the proposed windows of different sizes have been staggered to avoid directly opposing windows on these narrow areas. This is considered acceptable in terms of avoiding undue overlooking. No concerns in relation to overlooking outside the application site.
 - Daylight/Sunlight and Overshadowing - Assessment indicates that no adverse impacts will occur as a consequence of the proposed development on levels of daylight on windows of properties in the vicinity or on sunlight. Proposed open space areas will receive levels of sunlight in excess of the BRE recommendations. All the rooms within the proposed blocks which were assessed will achieve an Average Daylight Factor in excess of the minimum level recommended by the BRE Guidelines.

- Apartment Standards - Proposed mix is considered acceptable. It appears that the minimum internal areas standards set out in SPPR 3 and Appendix 1 of the 2018 Apartment Guidelines are met or exceeded. Some of the apartments are not considered dual aspect by the PA (namely nos. 141, 142, 145, 148, and 149). Nevertheless, it would appear from initial examination that the development currently achieves the 50% minimum proportion of 'true' dual aspect. It is considered that the internal communal spaces provided offer a good complement to the open space amenities. It should be noted that the proposed development would not be compliant with Build To Rent standards on this issue.
- Open Space Provision and Tree Retention – Open space provision is acceptable. Level of tree removal acceptable subject to mitigation measures included in the Arboricultural Report being adhered to, and also those in relation to bats as set out in the Ecological Impact Report.
- Design, Form, Layout and Boundary Treatments:
 - Layout acceptable. Car movement restricted to north edge and south boundary, with car parking primarily at basement level. Height and massing steps down from north to south, toward the protected structure. Materials acceptable. The proposed design, form and layout is considered acceptable. Amendments to perimeter boundary will improve the public realm. Landscaping works in the public realm must be done in agreement with the PA. It is considered that the proposed development – subject to the modifications in height in Block 4 to address impacts on the Protected Structure - adequately responds to its receiving environment and makes a sustainable use of the land.
- Access and Traffic:
 - Revised drawings should be submitted by the Applicant identifying the parking provision for the childcare facility in accordance with the provisions of the Development Plan. The Applicant should also implement measures to ensure drop-off spaces are used exclusively by parents dropping/picking up children during crèche business hours and not by visitors to the apartments.

The Board should consider including a Condition to this effect in the event of a grant of permission.

- Supporting Community Infrastructure:
 - Childcare facility acceptable. No assessment of school capacity has been submitted.
- Refuse Storage/Waste Plan/Construction Management Plan
 - Fully detailed Construction and Demolition Waste Management Plan and Operational Waste Management Plans should be submitted prior to commencement of development, should permission be granted.
- Flooding/Drainage Planning
 - Drainage proposals and SSFRA acceptable. Notwithstanding this, the drainage section seeks the hydraulic model to be submitted for review prior to the commencement of development.
- Taking in Charge
 - This plan shows the new footpath along Murphystown Road to the north of the site as proposed to be taken in charge by the Council. This aspect of the proposal is welcomed, given the lack of footpaths along this stretch of roadway. However, it would be preferable if the applicant were to extend this footpath as far as Kilgobbin Road. A condition is recommended to this effect.
- Part V/Social Housing
 - Transfer of 20 units in block 1 proposed.
- AA/EIA
 - With regards to cumulative impact, whilst the applicant notes the site is in a fully serviced and urbanised location, the potential for cumulative impacts with other existing or approved developments should be an important consideration in the preparation of a scoping opinion.
- Development Contributions

- A Section 49 – Supplementary Development Contribution Scheme for the Extension of Luas Line B1 – Sandyford to Cherrywood will apply in addition to standard contributions.

8.2. Statement in Accordance with 8 (3) (B) (II)

Dun Laoghaire Rathdown County Council Chief Executive's Report recommends a grant of permission subject to a number of conditions, including the following:

- C2: (a) The proposed Block 4 shall be reduced in height to 3 storeys by way of removal of the proposed first floor.

(b) The proposed footpath along Murphystown Road shall be extended along the entire northern site frontage as far as Kilgobbin Road, where it shall tie in with the existing footpath.

- C8 and C9: Drainage issues.
- C16: State 2 Detailed Design Stage Stormwater Audit, as required under policy EI9.
- C17: Stage 3 Completion Stage Stormwater Audit.
- C18: hydraulic analysis to be submitted.
- C23: Implement Road Safety Audit measures and requirement for Stage 2 and Stage 3 Quality Audit.
- C29: Provision of at least 2 Crèche drop off parking spaces with Parent and Child dimensions in accordance with Section 8.2.4.6 of CDP 2016-2022. A width of 3.3m with the required buffer zone widths of 0.9m each on either side of each parent and child space is required. Note that the buffer zone between proposed parent and child parking spaces can be shared.
- C33: Tree bond.
- C43: Development contributions.
- C44: Development contribution towards the cost of the extension of Luas Line B from the Sandyford Depot to Cherrywood, namely Luas Line B1.

9.0 Prescribed Bodies

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

1. Irish Water
2. Transport Infrastructure Ireland
3. National Transport Authority
4. Dun Laoghaire Rathdown County Council Childcare Committee
5. Minister for Culture, Heritage and the Gaeltacht (Built Heritage and Nature Conservation)
6. The Heritage Council
7. An Taisce-the National Trust for Ireland
8. An Comhairle Ealaoin
9. Failte Ireland

Four of the bodies have responded and the following is a summary of the points raised.

- 9.1. Irish Water: Based upon details submitted by the developer and the Confirmation of Feasibility issued by Irish Water, Irish Water confirms that subject to a valid connection agreement being put in place between IW and the developer, the proposed connection(s) to the Irish Water network(s) can be facilitated.
- 9.2. Development Applications Unit, Department of Culture Heritage and the Gaeltacht: A condition is recommended in relation to archaeology, with requirement for an archaeological assessment of the development site.
- 9.3. Transport Infrastructure Ireland: No objection subject to condition in relation to construction traffic management plan, section 49 contribution and requirements to comply with TII's code of engineering practice for works on, near, or adjacent the Luas light rail system.
- 9.4. An Taisce: The proposed development is a material contravention of the development plan, as per the former Dairies site the decision on which was quashed by the high court. The heights are too great for suburban area beside a protected

structure. The proposal represents over development of the site. The setting of the protected structure would be severely impacted by overlooking and the loss of privacy. Trees being retained would not be adequate to mitigate the visually dominant and overbearing effect of the five storey blocks on the remaining curtilage of Lisieux Hall on its approach or on the setting of the protected structure itself. Permission before the Board for a dwelling in the grounds of the house is referenced.

10.0 **Assessment**

10.1. **Introduction**

10.1.1. Having examined the application details and all other documentation on file, including the C.E. Report from the Planning Authority and all of the submissions received in relation to the application, and having inspected the site, and having regard to the relevant local/regional/national policies and guidance, I consider that the main issues in this application are as follows:

- Zoning / Principle of Development
- Density and Housing Mix
- Layout and Urban Design
- Architectural Heritage
- Impacts on Amenity
- Traffic, Transportation and Access
- Water Services Infrastructure
- Other matters
- Material Contravention – Building Height

These matters are considered separately hereunder.

10.1.2. I have undertaken an Environmental Impact Assessment Screening and Appropriate Assessment Screening in respect of the proposed development, as detailed elsewhere in this report.

10.2. **Zoning/Principle of Development**

- 10.2.1. The site is governed by zoning objective A ‘to protect and/or improve residential amenity’.
- 10.2.2. Having regard to the nature and scale of development proposed, namely an application for 200 residential units and a childcare facility located on lands within zoning objective A, in which residential development is ‘permitted in principle’ and childcare service is ‘open for consideration’, I am of the opinion the proposal is acceptable in principle in accordance with the zoning objective relating to the site and that the proposed development falls within the definition of Strategic Housing Development, as set out in section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016.

10.3. **Density and Housing Mix**

- 10.3.1. The proposed development has a density of 168 units per hectare, based on a site area of c. 1.19ha and the provision of 200 units.
- 10.3.2. Observer submissions contend the density is too high for the site, with the proposal resulting in over-development and over-intensification of the site, which is overall contrary to the character of the area.
- 10.3.3. The NPF highlights as a key policy, a requirement to secure more compact and sustainable urban development, with at least half of new homes within Ireland’s cities to be provided within the existing urban envelope. It recognises that at a metropolitan scale, this will require focus on underutilised land within the canals and the M50 ring and a more compact urban form, facilitated through well designed higher density development. The Dublin MASP, set out in the RSES, highlights the Luas Corridor as a strategic development corridor, where compact growth is supported.
- 10.3.4. RSES Regional Policy Objective 5.5. states ‘Future development of strategic residential development areas within the Dublin Metropolitan area shall provide for higher densities and qualitative standards as set out in the ‘Sustainable Residential Development in Urban Areas’, ‘Sustainable Urban Housing: Design Standards for New Apartments’ Guidelines and ‘Urban Development and Building Heights Guidelines for Planning Authorities’. The guidelines Sustainable Residential Development in Urban Areas support consolidated higher density developments along public transport corridors, where higher densities with minimum net densities of 50 dwellings per hectare are supported, subject to appropriate design and amenity

standards. With regard to the Design Standards for New Apartment (2018), it is noted that increased housing supply must include a dramatic increase in the provision of apartment development to support on-going population growth, a long-term move towards smaller average household size, an ageing and more diverse population, with greater labour mobility, and a higher proportion of households in the rented sector.

10.3.5. The application site is a greenfield infill site within the Metropolitan area of Dublin and is located along the Luas Green Line, within 220m of a Luas Stop. A bus route adjoins the site, with cycle lanes adjoining the site along Murphystown Way and an informal route on Murphystown Road. There are existing commercial and community facilities within walking distance of the site and the site is also proximate to significant employment generators. Given the site's zoning, immediate context, and location proximate to a high capacity Luas line and to high employment areas, I am of the opinion that the delivery of residential development on this prime, underutilised, serviced site, in a compact form comprising higher density units would be consistent with policies and intended outcomes of current Government policy, specifically the NPF, which looks to secure more compact and sustainable urban development with at least half of new homes within Ireland's cities to be provided within the existing urban envelope (Objective 3b).

10.3.6. The density proposed is within the range expected adjoining a high capacity public transport corridor within the Dublin metropolitan area, where no maximum density is set and is in my opinion acceptable, subject to an assessment of design and amenity standards, which are discussed further in detail hereunder. The proposal serves to widen the housing mix within the general area, and would in my opinion improve the extent to which it meets the various housing needs of the community.

10.4. **Layout and Urban Design**

10.4.1. It is proposed to construct four blocks comprising 200 apartments, over a single basement level car park. The proposed blocks vary in height from 5-7 storeys, with the upper floor in each block set back. Block 1 and 3 are located along the northern portion of the site and are L shaped, providing frontage to Murphystown Road, Murphystown Way and Kilgobbin Road. Block 1, at the northeastern corner is the highest block, being 7 storeys (with top floor set back) and comprises at ground floor

communal residential amenities / facilities including meeting/function rooms (112sq.m), gymnasium (220sq.m) and concierge office facilities (35sq.m). Block 3 is 5 storeys with a childcare facility at ground floor level. Blocks 2 and 4 are also L shaped, with their southern aspects toward Lisieux Hall and addressing on their other elevations Murphystown Way and Kilgobbin Road respectively. Blocks 2 and 4 are 5 storeys high, comprising 36 and 37 apartments respectively. I note it is stated in the submitted documentation that the development is not a specific build to rent scheme.

10.4.2. The layout of the scheme has been informed by its context as part of the grounds of Lisieux Hall dwelling, which is a protected structure (nineteenth century), and by the presence of significant trees on the site between the development and Lisieux Hall. The density proposed is influenced by the location of the site along the Luas Green line and proximity to the existing Luas stop at Glencairn, as well as proximity to the bus, cycle network, and connectivity to adjoining pedestrian paths, in an area well served by commercial and community facilities.

10.4.3. Vehicular and pedestrian access to the site is proposed from the north from Murphystown Road with two entrances proposed, one to the basement car park and the other to a one-way (separate access and egress) drop off/visitor parking area serving 11 spaces along the northern portion of the site. Additional pedestrian only accesses are proposed – two to the east from Murphystown Way, one to the north from Murphystown Road, and one to the west from Kilgobbin Road. I note that car movement is largely restricted to the northern boundary with access directly to the basement car park and no provision for vehicular movement across the site. A vehicular access to the southeast serves Lisieux Hall only and will also be available for emergency vehicle access. The proposed layout is therefore pedestrian/cyclist friendly, with a high level of permeability east-west and north-south through the scheme, connecting at a number of points into the surrounding street network, facilitating convenient access to the bus and luas stops as well as local services.

10.4.4. While I note the site is highly permeable for future occupants, the entire development is gated at all pedestrian entrances. I do not agree with this approach to such a large block of land. Gated developments are contrary to national policy guidance for the design of urban areas, as set out in the Sustainable Residential Development Guidelines (2009) and the accompanying Urban Design Manual and in DMURS,

both of which envisage a high level of permeability within the urban environment. Should the Board be minded to grant permission, I consider this issue could be addressed by way of condition through the removal of the pedestrian gates around the perimeter of the site. A perimeter pathway is proposed around the development through the linear open space proposed, which supports pedestrian movement east-west and north-south.

10.4.5. It is proposed to remove/ reduce the perimeter walls of the site (approx. 2.5m in height at present) to greatly improve the visual permeability of the development and connectivity with the adjoining public realm. I note the public realm along Murphystown Way is currently quite poor with high boundary walls on both sides of the road and luas line. Similarly the western elevation to Kilgobbin Road is currently of high walls on one side and railings to a park on the other with very little passive surveillance for pedestrians. The northern boundary with Murphystown Road also has a high wall boundary. The proposed reduction in height of the walls will in my opinion greatly improved the public realm and overall levels of passive surveillance in this area. I note that Murphystown Road has been closed off to through traffic but the design of this road has not been amended since this work was undertaken and is therefore poorly treated for pedestrians and cyclists. To this end, the applicant proposes to undertake works at the western end of this road where it meets Kilgobbin Road as part of the proposed development. The pedestrian path along the front of the site will be improved also, and a pedestrian path is to be provided outside the boundary of the site to the northeast through a green area to connect into the existing footpath. I note from site inspection there is a clear pedestrian desire line through this residual green area at present. The works to the public road are not in the red line boundary and are therefore subject to agreement with the planning authority. The planning authority raises no issue in the CE Report with such works being undertaken, on their lands, subject to the agreement of details. Given the increased level of pedestrian/cyclist movement in this area likely to be generated by the proposed development, I consider it important that such works are undertaken. Should the Board be minded to grant permission, I consider this issue could be addressed by way of condition.

10.4.6. I consider the proposed development will interact and connect positively with the adjoining street network and consequently to the luas and bus services in the area,

with the improvements to the footpath and cycle paths a positive contribution to the area.

Height Strategy and Visual Impact Assessment

- 10.4.7. The Urban Development and Building Heights Guidelines for Planning Authorities (2018) sets out the requirements for considering increased building height at various locations and recognises the need for our cities and towns to grow upwards, not just outwards, in order to deliver and achieve compact growth. I have had particular regard to the development management criteria, as set out in section 3.2 of these Guidelines, in assessing this proposal. I have had regard to the Dun Laoghaire Rathdown Development Plan 2016-2022, in particular Appendix 9: Height Strategy. I have had regard also to the submitted Visual Impact Assessment (VIA) and the Architectural Design Statement and I have visited the site and the surrounds.
- 10.4.8. A number of observer submissions consider the height of the development to be excessive, overbearing, and out of keeping with the area. The visual impact assessment is questioned, with concerns raised in relation to where views were taken from and request that additional views be submitted. Concern was raised in particular from the Gallops that the 7 storey building will appear as an 8 storey building given difference in levels, and proposal will be overbearing also when viewed from Sandyford Hall Place, Sandyford Hall Lawn and Sandyford Hall Green, and when viewed from Glencairn Heath and Glencairn View, as well as from Roseacre/existing developments to the north.
- 10.4.9. I have carried out an inspection of the site and the surrounding area. While I note the concerns raised in relation to the VIA, I am satisfied that sufficient information has been submitted with the application in order for me to undertake an assessment of the visual impact of the development.
- 10.4.10. With regard to development plan policy, I note Appendix 9 Building Height Strategy states when considering additional height that the size of a site, e.g. 0.5ha or more, could set its own context for development and may have potential for greater building height away from boundaries with existing residential development. It is also stated that higher densities and mixed-use development should be promoted along strategic public transport corridors in order to support sustainable development patterns and increased building height at key locations, particularly

junctions along major transport corridors, which helps the legibility of the County. The development plan further specifies in relation to height, there will be situations where a minor modification up or down in height by up to two floors could be considered and these factors are known as 'Upward or Downward Modifiers'. The Development Plan requires that it will be necessary for a development proposal to meet more than one 'Upward Modifier' criteria if there is an increase in height. These include that the site is close to key public transport, within 500m, and the site is large enough (i.e.>0.5Ha) to set its own context, which is the case with this application site. The upward modifiers would allow for a maximum of two storeys in addition to the 4-storeys generally permissible, up to a height of six, however a downward modifier could be applied given the presence of a protected structure. The proposed development materially contravenes the Dun Laoghaire-Rathdown Development Plan 2016-2022 in terms of height, however, the CE Report considers that the location of the proposed 7-storey Block to the north east at a significant distance from the Protected Structure militates against potential impacts that it could have on the Protected Structure.

10.4.11. Having considered the local policy context, I consider the site is of sufficient scale to determine its own character and I consider the contemporary design proposed to be of a high quality, which will add to legibility in the area and contribute to the public realm at this location. While I note the character of the area is predominantly low rise two storey dwellings, the area along the Luas line is evolving and comprises a mix of apartment developments (existing and permitted) to the southeast and to the northeast of the site. I consider the site suitable for increased density and increased height and have considered this in the context of the existing environment and character of the area, as discussed further hereunder. I discuss the issue of material contravention also under section 10.10 hereunder.

10.4.12. With regard to the height strategy adopted, the highest block, Block 1, is located at the northeastern section of the site being 7 storeys in height, with Blocks 2 and 4 stepping down to 5 storeys in height towards the Protected Structure south of the site. The site can be considered as an 'island site', detached from suburban two storey houses in the wider area by the surrounding street network. I note Glencairn Heath and Glencairn View are visible from the eastern section of the site and are located approx. 40m from the eastern boundary, with the intervening land comprising

Murphystown Way, Luas Green Line and a parallel estate road to the east of the Luas line, behind a high boundary wall. I also note there is a level difference involved. However, having viewed the dwellings from the site and visited the area and having regard to the separation distances involved, the width of Murphystown Way and Luas Line and additional open space at the junction between the site and the northeast of the roundabout, I consider the site can take additional proposed height at this corner and the proposal while visible from the surrounding area, will not in my opinion, detract from the character of the area, but add to increased legibility.

10.4.13. With regard to Sandyford Hall, I note the proposed development Block 3 (6 storeys) and Block 4 (5 storeys) are approx. 102m from the nearest dwellings in Sandyford Hall, with the intervening land comprising the Kilgobbin Road and a public open space park within Sandyford Hall. I note the level difference at Sandyford Hall, which is lower than the application site. The site will be as visible to housing at this location as will the blocks facing Murphystown Way from the housing east of the site, however, as noted above I consider the subject site, given its location and scale, in addition to the screening effect from trees, is sufficiently detached from neighbouring two storey residential properties so as not to negatively impact on the character of the area. Given the separation distances involved at this location, in addition to the separation distances involved with dwellings to the east, I do not consider this a particularly sensitive transitional zone. While visible, I do not consider the proposal will have a significant negative visual impact, but will rather contribute to the architectural narrative of the area by providing a development that is contemporary and of its time.

10.4.14. Dwellings to the north of Murphystown Road, in particular the dwelling to the northeast at the roundabout with Kilgobbin Road, and the businesses on the northern side of Murphystown Road are the closest to the site and given the narrower width of this street, the proposal will be quite visible and dominant from this street, specifically Block 3. Block 1 is positioned at an angle further from Murphystown Road and will have less of an impact, addressing to a greater degree the northeast corner and Murphystown Way. However, I note Block 3 is approx 30m from the dwelling and businesses to the north, therefore while more visually dominant relative to the other blocks on neighbouring properties, I consider overall, given the separation distances and design of the proposal with upper floor set back,

the proposal will not be overbearing or result in a significant negative visual impact on dwellings/businesses to the north, including Roseacre (I have considered the issue of sunlight/daylight/overshadowing separately in section 11.6.12 of this report).

10.4.15. The main impact in terms of the height of the proposed development is in relation to the visual impact on the protected structure of Lisieux Hall, approx. 50m south of the site, given the site is within the curtilage of Lisieux Hall. The visual impact on Lisieux Hall is raised in a number of observer submissions, including a submission from An Taisce (I refer the Board to section 10.5 hereunder) The CE Report considers that a floor should be removed from Block 4 to reduce the impact due to the level difference between the sites at this location, with the dwelling being lower down. As set out hereunder, I have considered the context of the house and its location and levels, in particular, I note the east-west orientation of Lisieux Hall, the positioning of the revised entrance which continues the effect of the sweeping avenue leading up to the house from the east, and the southern belt of open space and planting which will continue to serve as a separation between the site and Lisieux Hall. In addition I note the backdrop of the house when viewed from the east/approaching from the northeast will remain primarily of the mountains behind, notwithstanding that looking north travelling away from the house the view of the open lawn with trees will be significantly altered with the proposed apartment blocks. While I note the concerns raised in relation to the height of Block 4, I have reviewed view 4 of the VIA as well as the submitted cross-sections and I do not consider the omission of a floor will significantly alter the visual impact which will arise with this development and I do not consider that the omission of a floor is warranted having regard to the location, context and design of the development.

10.4.16. Overall, having regard to separation distances with surrounding developments, intervening land uses of roads, parks, luas and public open space, and screening from existing trees on site and in the area, I do not consider the site to be a within a particularly sensitive transitional zone, as raised in some observer submissions. I consider the visual impact will not be so significant as to detract from the visual amenity and character of the area and will not be overbearing on other developments in the area. I discuss the impact on residential amenity (overshadowing/sunlight/daylight/overlooking) further in section 10.6 hereunder.

10.4.17. I have had specific regard to SPPR3 and Section 3.2 of Urban Development and Building Height Guidelines in assessing the overall height of the proposed development against the development plan height strategy. SPPR 3 states:

'It is a specific planning policy requirement that where;

- (A) 1. an applicant for planning permission sets out how a development proposal complies with the criteria above; and
- 2. the assessment of the planning authority concurs, taking account of the wider strategic and national policy parameters set out in the National Planning Framework and these guidelines;

then the planning authority may approve such development, even where specific objectives of the relevant development plan or local area plan may indicate otherwise'.

10.4.18. Observer submissions contend that section 3.2 of the guidelines have not been met and the development materially contravenes the development plan in terms of the height proposed (see also section 10.10 in relation to material contravention).

10.4.19. I have assessed hereunder the proposed development against section 3.2 Development Management Criteria of the guidelines, which set out a number of bullet point criteria which must be demonstrated by an applicant when submitting proposals for buildings taller than prevailing building heights. The criteria are set out under four headings of 'At the scale of the relevant city/town', 'At the scale of district/neighbourhood/street', 'At the scale of site/building' and 'Specific Assessments'.

Section 3.2 Criteria: At the scale of the relevant city/town

10.4.20. In examining the site 'At the scale of the relevant city/town', I note the site is well served by public transport, with a high capacity Luas line adjoining the site and a stop within 220m. There is also a bus route adjoining the site, with planned upgrades via Bus Connects, and the site adjoins a cycle path along Murphystown Way/Ballyogan Road. The development proposes improvements to Murphystown Road as part of the application for pedestrians and cyclists. Observer submissions contend that the development is not served by a high capacity Luas or bus route

given peak time pressures on the Luas and bus and the applicant has not demonstrated/proven that the headroom/high capacity for additional passengers exists at present. I note anecdotal evidence presented that there are capacity issues at peak hours on the Luas line and the bus route is not efficient. The Luas is an existing high capacity, high frequency, mode of transport proximate to the site capable of accommodating large numbers of people, more than can be accommodated in a private car. This area offers choice of modes of transport for peak hour movements, including Luas, bus, cycle paths, pedestrian paths, and car. There are plans to continually upgrade and improve all such modes of transport, which is not to say the transport options available are not high frequency or efficient. Peak hour pressures are common and to be expected in urban areas and were this to be the basis of a refusal, no development would take place in our towns and cities. To develop sustainable communities, developments must be designed to enable a shift in modal split from private car to walking/cycling/public transport. I consider the site is ideally located and serviced to build on such sustainable options. The TII has not submitted an objection to this proposal on the basis of lack of public transport capacity nor has it raised this as an issue in terms of prematurity of development pending any further upgrades or increase to services. I am satisfied that the transport network (rail, bus, road, bicycle, and pedestrian) can cater for the increase in population anticipated by this development, and I am also satisfied that the public transport plans set out in the RSES can be achieved alongside the consolidated and compact growth of the region as proposed and as supported by the NPF and the NDP.

10.4.21. I note issues are raised in relation to the limited level of service at present due to the current Covid-19 pandemic, however, I would note that this is a relatively temporary situation and services will be capable of being increased when appropriate. I note the updated DMURS guidance supports an increased focus on facilities to support and improve walking and cycling facilities given the current pandemic, which I consider an appropriate response. Land is a finite resource and to build at a lower density due to temporal constraints associated with the pandemic, along what is a high capacity transport route served by various modes of transport, would in my opinion be contrary to national policy and would be contrary to the proper planning and sustainable development of the area. Supporting a shift in

modes of transport to walking and cycling will ultimately benefit all in the community and the proposed development provides for a high level of connectivity into the surrounding network in this regard.

10.4.22. With reference to the section 3.2 criteria, I note a Visual Impact Assessment has been submitted as part of the application. The proposal has had due regard to the protected structure to the south (see section 10.5 hereunder in relation to Architectural Heritage) and will not in my opinion have a significant negative impact on the character or residential amenity of the area and will integrate with and enhance the adjoining public realm, with improvements to the boundary and footpath/cycle network proposed.

Section 3.2 Criteria: At the scale of district/neighbourhood/street

10.4.23. Observer submissions contend the site, through the removal of a significant number of trees, has not responded to the overall natural environment and therefore, contrary to the section 3.2 criteria, the applicant has not demonstrated that the proposal responds to its overall natural and built environment and makes a positive contribution to the urban neighbourhood and streetscape

10.4.24. An Arboricultural Impact Assessment, Ecological Impact Statement and Landscape Design Masterplan have been submitted with the application. I have examined these in detail (see section 10.4.36-10.4.45 hereunder). In developing a greenfield site there will inevitably be loss of biodiversity and natural habitats and this has to be balanced against the form of development and landscape strategy proposed. I note that a number of trees will be removed as part of the development. There are no tree preservation orders relating to the site and no specific development plan map based objective in relation to the trees. The applicant has indicated how the design has been influenced by the presence of existing trees, with the strategy to retain trees at the southern boundary adjoining the protected structure, along the boundaries and within the central area of the block, with the design of the basement taking this strategy into account. The difficulties in retaining the trees alongside development are acknowledged within the report, with a landscape strategy proposed which focuses on significant tree planting to provide for long term replacement, as well as retention of key areas of trees. Overall I am satisfied, having reviewed the information submitted, with the balance being struck

between retaining existing landscape features and developing a new landscape environment to support the development and in my opinion the proposal has responded adequately to the natural environment.

10.4.25. Observer submissions contend that the proposed development has not had regard to the existing built environment and the form, massing and height proposed is contrary to the character of the area. I note the development is on an 'island' site separated by adjoining streets and a park from neighbouring residential estates. I have considered the existing context and layout and design of the proposed development and I have also considered the protected structure in assessing the impact of the development (see sections 10.5 and 10.6 hereunder). Given the scale of the site and separation distances involved, I am of the opinion that the site is capable of determining its own character and built form without detriment to the character of the surrounding area or needing to copy existing development formats. As acknowledged in the building height guidelines, it is possible to consolidate development through increased building heights while respecting the existing environment. Overall, I am satisfied that the proposal responds to its overall natural and built environment and will make a positive contribution to the urban neighbourhood and streetscape.

10.4.26. With regard to the consideration of the criteria relating to legibility, I consider the proposal, will make a positive contribution to the improvement of legibility in the wider urban area, particularly at the northeast corner of the site where the seven storey building is proposed and would integrate in a cohesive manner with the surrounding area.

10.4.27. I note this area is evolving along the line of the Luas with more mixed typologies and increased densities being permitted in what historically has been a two storey suburban area with poor public transport infrastructure. I consider the reference in the application to higher density developments in the wider area is relevant as an indication of how existing greenfield/brownfield sites are being consolidated to maximise investment in public transport in the area and to support the development of sustainable communities with the creation of mixed forms and typologies alongside the existing built form, contributing to the architectural interest of the area as it evolves alongside the existing urban form.

Section 3.2 Criteria: At the scale of site/building

10.4.28. I consider the form, massing and height of the proposed development has been well considered and issues in relation to sunlight/daylight/overshadowing have been adequately addressed (see section 10.6 hereunder).

Section 3.2 Criteria: Specific assessments

10.4.29. A number of specific assessment have been undertaken and submitted with this application, specifically in relation to ecology, trees, bats, visual impact assessment, architectural heritage impact assessment, urban design, EIA screening and AA screening. I am satisfied that adequate information has been submitted to enable me to undertake an assessment of the impact of the proposed development.

10.4.30. Overall, I consider the criteria set out in Section 3.2 of the guidelines have been appropriately incorporated into the development proposals. The Board may in such circumstances approve such development for higher buildings, even where specific objectives of the relevant development plan or local area plan may indicate otherwise, as per SPPR3. In this regard, while the height is greater than the height permitted in the development plan, I consider the proposed development will provide for a strong well designed building form at this highly accessible and serviced site, and the building height proposed is in accordance with national policy and guidance to support compact consolidated growth within the footprint of existing urban areas. Having regard to the provisions of Section 37(2)(b)(iii), in my opinion it is justified to contravene the Dun Laoghaire Rathdown County Development Plan 2016-2022 in relation to the height strategy (see also section 10.10 hereunder).

Open Space

10.4.31. The Development Plan states that an absolute minimum of 10% of the site area (1,190 sq m) should be provided for open space. The CE Report indicates the Development Plan requirement based on the expected population would be between 4,740 and 6,320 sq m of public/communal open space.

10.4.32. A central open space with a large attenuation pond is proposed within the centre of the blocks, with a stated area of c.2,685 sqm (22% of the total site area). A second area of open space of c.1,872 sqm (16% of the site area) is located to the south of the proposed development, where existing mature trees are to be retained.

A linear open space area is proposed around the perimeter of the site to the west and east, connecting with the southern open space and the northern entrance. This linear area (which is not calculated as public open space) varies in width from 8-9m to the east and 10-13m to the west, which will allow for retention of some trees and landscaping around the perimeter of the site, which is a welcome addition to the amenity value of the development. The two main public open space/communal areas are stated to comprise 38% of the total site area (4,557 sq m), with the southern space accommodating informal play areas for children. Having regard to the quantum of communal open space proposed (4,557 sq m) and its design and location and the residual open space (2,103 sq m) located along the north, east and west boundaries, I consider the distribution, quantum and design of the proposed open space, in addition to the additional communal facilities within Block 1 will adequately serve future residents and is acceptable.

Childcare Facility and Community Facilities

- 10.4.33. Observer submissions raise concerns in relation to childcare and school capacity in the area.
- 10.4.34. The childcare guidelines states that 1 childcare facility with a minimum provision of 20 spaces is required per 75 dwellings. The Apartment Guidelines 2018 indicate that notwithstanding these requirements, a more specific analysis should be undertaken for apartment developments, having regard to the scale and unit mix of the proposed development. One bedroom or studio type units are not considered to contribute to a requirement for any childcare provision. The proposed development would generate a requirement (excluding studio and one bed units) for c. 29 children. A childcare facility of 356 sqm is proposed, with a stated capacity of c. 60 children. This is acceptable.
- 10.4.35. In relation to schools, I note there are a number of primary schools in the area and permission has been granted for a post primary school (to cater for 1000 students). There is no specific objective on this site relating to schools. I note that the Ballyogan and Environs LAP 2019, which relates to the lands immediately to the northeast and southwest of the site, addresses the issue of school needs, projections, and delivery in this wider area.

Part V

10.4.36. I note the applicant proposes within the documentation to accommodate part V on the site with the provision of 20 units. This matter can be addressed by way of condition.

Ecological Impact and Arboricultural Assessment

10.4.37. An Ecological Impact Statement (EclS) has been submitted with the application, as has an Arboricultural Report and Landscape Design Statement.

10.4.38. Concerns have been raised in observer submissions in relation to the level of tree loss proposed on the site and the resultant impact on biodiversity and amenity.

10.4.39. The EclS describes the site as an open area of scattered trees and parkland, with a combination of maintained amenity grassland and a variety of trees and horticultural hedgerow along the existing Avenue through the site. It is stated that there are no alien invasive plant species on the site. There are no habitats which are examples of those listed in Annex II of the Habitats Directive and no habitat suitable for protected species of plants. There was no evidence that Badgers use the site and no setts were present. A dedicated bat survey of the site was carried out on June 7th 2020. The report states that "Bats were not observed emerging from trees on site. However, several of the trees have bat roosting potential and foraging bats were noted on site. No actual roosts or evidence of roosts were noted." Breeding birds noted on the site are of low conservation concern/green list (Colhoun & Cummins, 2013). Suitable nesting habitat is available for common garden birds in garden shrubbery as well as holes in large trees.

10.4.40. Construction phase impacts and operational impacts are considered in the EclS. Mitigation measures are proposed, including a landscaping/planting plan and proposed pond which will benefit biodiversity; site clearance to take place only outside the bird nesting season; and while no bat roost was found, each tree with potential features for roosting will be examined in detail by endoscope, within the optimal survey season prior its removal and should bats roosting within trees be noted a derogation license should be sought from the NPWS and the bats removed by a bat specialist, prior to tree's removal. In addition, as a precaution, it is stated that as bats are using the site as a foraging area it is recommended that lighting of this area follows bat lighting guidance. A post-completion lighting survey is recommended to confirm specifications and light spill calculations have been

maintained and that the light spill from the development is contained to the limits in the light spill assessment. This is to ensure that bat foraging will take place to the south of the site. It is also recommended that compensatory measures are put in place to offset the loss of potential roosting sites by placing 10 bat boxes in the remaining large trees on site in areas of no direct lighting from the development, in consultation with an ecologist and the post construction light spill assessment. I note none of the mitigation measures proposed are required or included to avoid or reduce an impact to a European site.

10.4.41. According to the Arboricultural Report there are 126 trees/tree groups, of which there are no Category A trees, 67 Category B trees/tree groups and 45 Category C trees/tree groups and 14 Category U trees/tree groups. It is proposed to remove 22 Category B trees and 23 Category C trees (including one shrub group) and all 14 Category U trees. The Arboricultural Report notes that the size and scale of the proposed development means that much of the central area of the site must be cleared of trees and in some instances, its proximity to boundaries will mean that many trees cannot realistically be retained outside of the building footprint. The report sets out the various constraints to tree retention due to the scale of development and requirements of engineering works. It is considered overall that long term tree cover on the site will be dependant on substantial replacement planting. In the interests of maximising short term and interim tree cover, for example for the period within which new plantings can develop, a strategy of maximising tree retention is proposed. Therefore, notwithstanding the constraints, certain elements of the development have been designed to support tree retention in less than optimum areas, including the central courtyard area and along the new entrance to Lisieux Hall where a no dig method of construction of the road access is proposed. The Landscape proposals comprise of extensive tree planting across the site.

10.4.42. I note the DLRCC Parks Report (which is attached as an appendix to the CE Report) recommends refusal on the basis of the extent of tree loss in addition to likely loss of additional trees proposed for retention, due to scale of the development. The planning analysis of the CE Report notes that while a large number of Category B trees are to be removed from the site, no category A trees are being removed and tree retention has to be balanced against the development of a residential scheme at adequate densities in the vicinity of a public transport corridor. It is noted that

mitigation measures are proposed to protect retained trees during construction stage, particularly along the north and south boundaries and the proposed basement layout has been designed to allow for the retention of existing trees to the centre of the site.

10.4.43. The proposed number of trees for removal and the arboricultural report assessment in relation to long term tree loss is noted. I agree with the CE Report that there is a balance to be achieved in urban environments between protecting existing trees and consolidating development on sites in urban areas which are highly accessible and along high frequency public transport routes, as required by the NPF, RSES, and various Section 28 Guidelines. I note the level of work required to retain the trees proposed for retention and the overall level of additional planting across the site. I welcome the measures proposed which will enable retention of cover and its replacement with healthier plants in the long term.

10.4.44. I consider one of the key issues on this site is the relationship of the trees along the southern boundary with Lisieux Hall and the applicant's proposal to retain as many of the trees as possible in this area. The retention of these trees and this green area will provide an appropriate area of separation between the sites and mitigate the visual impact of the development on the setting of this protected structure. The retention of the trees along this section is critical as are the longer term planting proposals at this location, particularly at the southwest corner. I note one large beech tree is proposed for removal in the southwest corner, which the arboricultural report notes has significant structural issues, as do trees 2496 and 2497 to the southeast boundary. The remaining trees support the immediate setting of the protected structure and facilitate the physical separation between the two developments. I note a 1.4m high fence with landscaping is proposed along the boundary with the protected structure which will be constructed to minimise impact on the trees, while facilitating a separation between the sites, with dense planting proposed on both sides of the fence welcomed (I note the land south of the proposed fence where additional planting is proposed is within the ownership of the applicant). While the development will undoubtedly be visible from Lisieux Hall, I consider the landscape setting at this southern section with interspersed trees will mitigate this impact.

10.4.45. Overall, having considered all the information presented and submissions made, I consider the approach to tree retention and mitigating landscaping proposals to be acceptable.

Conclusion on Layout and Design

10.4.46. Overall I consider the layout of the scheme to be acceptable. I am cognisant of national policy in this regard, in particular Urban Development and Building Heights, Guidelines for Planning Authorities (2018), which sets out the requirements for considering increased building height in various locations and recognises the need for our cities and towns to grow upwards, not just outwards in order to deliver compact sustainable growth. I consider the site to be at an accessible urban location benefitting from high capacity public transport and amenities in an existing serviced area and within walking/cycling distance of local services and employment. The proposal in my view integrates successfully with the wider scheme in terms of design and layout, has had due regard to its immediate context, and contributes to the public realm and character of this developing area. Having regard to all of the above, I consider the site has the capacity to absorb a development of the nature and scale proposed and the design, height and layout are in my view acceptable. I consider further hereunder issues raised by observers in relation to impact on architectural heritage and residential amenity of neighbouring properties.

10.5. Architectural Heritage - Impact on Lisieux Hall (Protected Structure) and Walled Garden

10.5.1. An Architectural Heritage Impact Assessment (HIA) has been submitted with the application, which considers the impact of the development on the setting of Lisieux Hall and on the proposal to remove the walled garden, which was to be incorporated within the previously permitted residential development on this site.

10.5.2. I note a number of submissions consider the proposed development is excessive in height and design and would impact negatively on the setting and historical character of the protected structure. An Taisce consider the setting of the protected structure would be severely impacted by overlooking and the loss of privacy and considers trees being retained would not be adequate to mitigate the visually dominant and overbearing effect of the five storey blocks on the remaining curtilage of Lisieux Hall on its approach or on the setting of the protected structure itself.

10.5.3. The Architectural HIA states the First Edition Ordnance map of 1837 shows the house as being somewhat smaller than at present, named Lilliput, and approached from the south. The 1837 map also shows the stable yard laid out as at present. This map shows the lands of Lilliput occupying only the southern half of the present lands, but extending off to the east. A second smaller house, North Lodge, is shown on the northern half of the lands west of the walled garden, and accessed from the present entrance off Murphystown Road, with a second entrance at the junction of Murphystown Road and Kilgobbin Road. It is stated that a walled garden is shown on the 1837 map, but of quite a different shape to the present walled garden, and in a different position. The assessment states that the 1907-9 1:2500 scale map shows Lisieux Hall (then named Cottage Park) as having roughly its present footprint and the property North Lodge which was on the application site is gone. The western wall of the wall garden as shown on the 1907-9 map is not shown in the location of the present western wall. The eastern wall and part of the east side of the walled garden as shown on the 1907-9 map were both removed as part of the construction of Murphystown Way. A tree lined driveway is shown on the 1907-9 map running from the location of the present entrance off Murphystown Road to the house, and there is a second entrance off Ballyogan Road at the south end of the lands. A gate lodge is shown at each entrance. Both these gate lodges are gone.

10.5.4. The submitted Architectural HIA states that within the Lisieux Hall lands, there is a strong landscape setting for the house, intimately surrounding the house, and separating the house visually from most of the northern part of the lands. It is considered that the northern parts of the lands make little contribution to the setting of the house, especially the north east corner of the lands, which has something of a backland character. It is stated that the construction of development on the northern portion of the lands will sever these lands from the house and this severance must be regarded as a significant loss, even though the northern lands are visually quite separate from the house and its immediate setting. It is proposed that all of the most important trees on the lands be retained. The biggest trees are very large and dominant, and their retention will do much to retain the character of the lands, and to retain the visual separation between the immediate surroundings of the house and that part of the lands where development is proposed.

10.5.5. I have had regard to all submissions made in relation to Lisieux Hall and have had regard to the Architectural Heritage Protection Guidelines 2011, specifically chapter 13, which considers development associated with the 'Curtilage and Attendant Grounds' of Protected Structures. I note the curtilage of Lisieux Hall has been amended over the years and has been impacted upon by the development of the surrounding suburban area and road network. The stand of trees along the southern boundary of the site at present visually separate Lisieux Hall from the northern garden / this application site. The house is orientated east-west and is not in any formal alignment with the application site. When viewed from the east, the background setting of the mountains behind adds to the setting of the house. The trees along the southern boundary of the site are to be retained and will continue to enclose Lisieux Hall, as at present. The southwestern block is the nearest block to Lisieux Hall at a distance of approx. 40m. While much higher than Lisieux Hall, in my opinion the visual impact will be sufficiently mitigated by the distance and by the mature trees to be retained, in addition to the trees to be planted and I have no concerns in relation to overlooking, overshadowing or loss of privacy for the residents of Lisieux Hall given the orientation of the house and its location relative to the site and to the separation distances and landscaping measures proposed. I am satisfied that the proposed height and scale of the development is appropriate and would not unduly detract from the integrity and character of Lisieux Hall.

10.5.6. With regard to the entrance driveway I note the original entrance was from Ballyogan Road and the entrance driveway from the north has been amended since the 1907 map. The revised entrance from Murphystown Way, as set out in the Architectural HIA, maintains to a degree the character of the avenue, with a sweeping approach to the house through the trees supporting the setting and view of the house as one approaches from the east. The revised entrance is in my view acceptable.

10.5.7. The CE report considers development on the application site is acceptable, however, concerns are raised in relation to the height of apartment Block 4 given the level change between the site and the house, with the house being at a lower level, resulting in a recommendation that one floor be omitted. Having reviewed the information before me, including the submitted cross sections, I do not consider the removal of one floor will alter significantly the visual impact and is not in my opinion warranted.

10.5.8. The south eastern block of apartments/Block 2 is proposed at the location of the walled garden. I note the garden was originally associated with a dwelling on the application site and the layout of the garden has been modified over the years, including the removal of its eastern side as part of the Murphystown Way public road. It is stated in the Architectural HIA that none of the walls are original and limited parts of the present walls date from the construction of the new garden around the beginning of the 20th century. The walls are currently in poor condition and overall it is not a historically significant walled garden. I note the garden is separate from the house and I agree with the findings of the HIA that it does not contribute significantly to the overall setting of Lisieux Hall. It is proposed to reuse stone from the walled garden for the creation of landscape features. In my opinion the removal of the walled garden is acceptable and will not detract significantly from the setting of Lisieux Hall.

10.5.9. The amendments to the boundary walls to the north, west and east of the development (which are not the original walls) are in my view acceptable and important in the development of the application site to support an improved connection with the public realm. The walls relating to the west, east and south of Lisieux Hall itself will remain unaltered.

10.5.10. Overall, I have considered the context of the site with regard to the impact on Lisieux Hall and its setting and amenity and I have considered the impact of the height, scale and massing of the proposed development on the setting and amenity of Lisieux Hall. I am satisfied that while the setting of Lisieux Hall will be permanently altered in a significant way, the house itself retains sufficient grounds and visual separation via existing and planned landscaping to ensure the protection of its setting and amenity.

10.6. **Impacts on Amenity**

Impact on Neighbouring Houses and Apartments

10.6.1. The potential impact of the proposed development on the residential amenity of neighbouring properties has been raised in submissions. Concerns have been raised in relation to scale and height of the development and resultant impacts on the character of the area, overlooking, overshadowing, loss of light, impacts on privacy and overbearance. It is contended that the development materially contravenes

Policy RES 3: Residential Density, which states 'It is Council policy to promote higher residential densities provided that proposals ensure a balance between the reasonable protection of existing residential amenities and the established character of areas, with the need to provide for sustainable residential development'. I have carried out an assessment of the visual impact of the development in section 10.4 above.

10.6.2. A Sunlight Daylight and Overshadowing Analysis has been submitted. The report examines existing surrounding properties to the north, east and west, and specifically examines windows at no 1 Tapton; office on opposite side of Murphystown Road; no. 3 Roseacre; Murphystown House; no. 8 Sandyford Hall and no. 16 Glencairn Heath. In terms of impacts of overshadowing on gardens, the report identified the garden to the north at Murphystown House for assessment. The report considers that in terms of daylight access, the likely range of impact is 'none' to 'imperceptible. Given the potential for impacts on daylight diminishes with distance, the report finds the proposed development will have no undue impact on daylight access within buildings in the wider area surrounding the application site. With regard to potential impact of shadows cast by the proposed development outside the site, the potential of the proposed development to result in material overshadowing is greatest in the case of lands to the north. Diagrams included in the report indicate anticipated levels of overshadowing in the wider area. It is stated that 'specifically, shadows cast by the proposed development are likely to extend north of Murphystown Road to the north of the site during the mornings and early afternoons of the autumn, winter and spring months, with a potential for very minor additional overshadowing during the summer months. The potential impact of the proposed development on sunlight access to lands to the north of Murphystown Road is predicted to range from none to "imperceptible" to "slight", with potentially "slight" to "moderate" impacts on occurring on sunlight access to the garden of Murphystown House during the mornings of the autumn, winter and spring months (although this garden will continue to remain adequately sunlit within the meaning of the BRE Guide)'. Impact of shadows on the garden of Murphystown House was also examined and it was determined that at least half of the garden will continue to receive sunlight for at least two hours of the day on 21st March, which is in accordance with BRE guidance. Overall, the results of the Sunlight Daylight and

Overshadowing Analysis indicates the impacts of the development on surrounding houses and open space areas are in accordance with BRE guidance. I accept the findings of the report.

- 10.6.3. I have considered also the potential impact on existing residents in Lisieux Hall. Given the distance of approx. 40m between Block 4 and Lisieux Hall, the location and orientation of Lisieux Hall relative to the application site, in addition to the trees to be retained and planted, I have no concerns in relation to overlooking, overshadowing or loss of privacy for the residents of Lisieux Hall.
- 10.6.4. While the outlook for the surrounding dwellings will be altered (as discussed above in section 10.4.7 Height Strategy) and there will be a limited degree of impact in terms of daylight/overshadowing, I am of the opinion, overall, that the proposed development, having regard to separation distances involved, as well as the design and layout of the proposed blocks, will not give rise to significant negative impacts on residential amenity in terms of overlooking, overshadowing, overbearance or loss of outlook. Indeed, in my opinion it would be unreasonable and contrary to government policy in relation to density and maximisation of strategic infrastructure, to allow the low density nature of the existing two-storey housing estates in the wider area to dictate the density of this strategically located block of land, which has good public transport accessibility and has a good level of local services and amenities. I have considered the issue of density under section 10.3 above and have considered the impact of the density proposed against design and amenity standards here. I am satisfied that, in accordance with RES3, an appropriate balance has been struck between the reasonable protection of existing residential amenities and the established character of the area, with the need to provide for sustainable residential development.
- 10.6.5. I have no information before me to believe that the proposal if permitted would lead to devaluation of property in the vicinity.

Amenity of Future Occupants – Design Standards for New Apartments 2018

- 10.6.6. The Guidelines for Planning Authorities on Design Standards for New Apartments issued by the minister in 2018 set out the standards with which the proposed 200 apartments must comply. Schedules were submitted to demonstrate compliance with the standards. The schedules are overall consistent with the drawings, with

apartment sizes in line with the standards set out in the guidelines, therefore complying with SPPR 3.

- 10.6.7. The documentation submitted states 86% of the proposed apartments are dual aspect, with 54% dual aspect to living/dining areas. I note the CE Report states some of the apartments are not considered dual aspect namely nos. 141, 142, 145, 148, and 149), nevertheless, it would appear from initial examination that the development currently achieves the 50% minimum proportion of 'true' dual aspect. I concur with the submission that the apartments listed are not true dual aspect units and that this scenario applies to the units on the floors above and below the quoted units on the fourth floor plan. I note from the schedule submitted there are similar single aspect units in the other blocks, which are relying on a secondary side window onto a balcony to be classified as dual aspect, which I do not consider acceptable. In addition it would appear some instances units are mis-labelled as dual aspect. I have examined all the units and by my calculation 43.5% of the units are single aspect and 56.5% are dual aspect. The proposal is therefore in compliance with SPPR 4, where 50% of units are required to be dual aspect. I note 32 of the 87 single aspect units are north facing, however, the overall proportion of north facing units is limited and I consider overall the layout and amenity of the apartments is to a high standard.
- 10.6.8. SPPR 5 states ground level apartment floor to ceiling heights shall be a minimum of 2.7m, which is the case in the apartment blocks proposed. The proposal complies with SPPR 6 which relates to the number of units per core.
- 10.6.9. A Building Lifecycle Report, as required by the guidelines, has been submitted
- 10.6.10. Car parking provision is considered acceptable, which will be discussed in more detail elsewhere in this report.
- 10.6.11. The proposed private amenity space and communal amenity space is in accordance with the guidelines.
- 10.6.12. Within the Daylight/Sunlight report, a selection of the proposed apartments were examined as were the two main open space areas. It is stated that all meet the minimum required Average Daylight Factor of 1.5% for living room, 2% for kitchens and the public open space areas are in compliance with BRE guidance in relation to sunlight. I accept the findings of the report.

10.6.13. In conclusion, having regard to all of the above, I am satisfied that the level of amenity being afforded to future occupiers of the proposed scheme is acceptable, subject to conditions, and the proposal if permitted would be an attractive place in which to reside.

Construction Phase Impact

10.6.14. Noise and construction phase impacts have been raised in observer submissions. While there will be a noise impact on the adjoining residential area, construction impacts are temporary in nature and the development must follow building regulations standards in relation to noise generation. I am satisfied that any impacts arising in relation to construction stage impacts of noise, dust, route of construction traffic, and hours of operation during construction can be appropriately mitigated through good construction management. This can be addressed by condition, should the Board be minded to grant permission.

10.7. Traffic, Transportation and Access

10.7.1. A Traffic and Transport Assessment has been submitted with the application, in addition to a Quality Audit, Outline Travel Plan and an Outline Construction Management Plan.

10.7.2. The development is c. 220m from the Glencairn Luas stop to the northeast from the proposed pedestrian entrance at the northern end of the site, and c. 460m from the Gallops Luas stop to the southeast from the proposed southernmost pedestrian entrance at the eastern boundary. There are also bus stops proximate to the site along Kilgobbin Road and Murphystown Way. There is a cycle path along both sides of Murphystown Way. Kilgobbin Road is narrower in width with a footpath only on the development side of the road. The BusConnects project includes measures in the vicinity of the site, which involves the provision of local and peak time routes (on Kilgobbin Road) connecting Ballyogan to Dun Laoghaire (on the local route) and connecting Kiltiernan to Ringsend and Kiltiernan to UCD (on the peak time route). The NTA proposed Cycle Network Plan indicates improved connections between the existing cycle routes in the area, including along Murphystown Road to the north of the site and existing missing sections on Kilgobbin Road adjoining the western boundary of the site.

- 10.7.3. The site is accessed from Murphystown Road. Two entrances are proposed, one to a basement level car park serving the development, with the second entrance centrally located serving a small number of car parking spaces for crèche drop off and visitors to the development, operating as a one way system. A footpath is proposed along part of the southern side of this road, bounding the application site. One pedestrian only access is proposed to the west from Kilgobbin Road, one from the north, and two to the east from Murphystown Way. As part of the proposed development it is intended to provide an enhanced public realm along the Murphystown Road cul-de-sac which is primarily used by pedestrians and cyclists. Works proposed to the Murphystown Road outside the red line are indicative and subject to the future agreement of Dun Laoghaire–Rathdown County Council. It is stated that the Applicant has no objection to the attachment of a condition in the event of a grant of permission requiring the Applicant to agree these works in advance of development commencing on site.
- 10.7.4. A large number of observer submissions state that the luas line is at capacity, the bus network is not high frequency, and car congestion in the area is significant, which is contended highlights the lack of infrastructure in the area to support the proposed high density development, alongside other permitted high density developments, and that the level of congestion cannot be dismissed as something that is part of an urban environment. Observer submissions also raise queries in relation to the methodology of the Traffic Impact Assessment, including timing of surveys and utilisation of out of date data from 2018.
- 10.7.5. The TTA gathered baseline traffic data and undertook junction surveys at Murphystown Road roundabout; Murphystown Road/Murphystown Way/Glencairn Road junction; Murphystown Way/Ballyogan Road junction; and at Ballyogan Road/Kilgobbin Road junction (traffic count undertaken on 29th May 2018). Link capacity analysis was undertaken on Murphystown Road and Murphystown Way. Trip rates generated were estimated using the TRICS database and based on surveyed traffic for similar types of development in similar locations. An assumption is made that all trips will be made by car, notwithstanding proximity of Luas and bus services, which is stated to be a conservative approach in assessing junction and link capacity. Two permitted developments were included in the calculations as they were deemed potentially significant in traffic terms (D15A/0247 Clay Farm residential

development and D03A/0584 mixed use commercial development north of Leopardstown Shopping Centre). The TTA for the site concluded that both Murphystown Road and Murphystown Way have sufficient link capacity with the development in plan and each junction assessed will operate within capacity during the AM and PM peak. Delays highlighted at some of the signalised arms of 35 seconds are considered to be representative of signalised junctions in an urban area. It is noted in terms of sightlines, that from the access to the basement visibility will be restricted to 35m, which is lower than the DMURS requirement of 45m, however, this is considered acceptable as those exiting the basement carpark will have good visibility to the Murphystown Road roundabout, and to vehicles exiting the roundabout toward the development, also, vehicles exiting the roundabout shall be travelling at a reduced speed and will be low in numbers, thereby mitigating the minor shortfall in visibility.

10.7.6. Concerns are raised by observers in relation to the methodology and assumptions utilised in the TTA, however, I note while the figures date from 2018, a conservative approach was taken in relation to the methodology. Having reviewed observer submissions and the information before me, I am satisfied with the robustness of the information presented. I note the Transportation Section of the planning authority has raised no concerns in this regard.

10.7.7. I acknowledge that there will be some increased traffic as a result of the proposed development, which is a concern raised in a number of submissions, however there is a good road network in the vicinity of the site which is well connected to the wider area, there is excellent public transport adjoining the site in the form of the luas, and there are existing cycle as well as pedestrian facilities connected to the site. This is an urban area where growth is to be expected in accordance with national and regional estimates and it is the management of this growth through the development of sustainable communities with a focus on sustainable modes of transport versus the use of the private car, which will support the sustainable development of this and other land in the area. The RSES under RPO 5.3 states 'Future development in the Dublin Metropolitan Area shall be planned and designed in a manner that facilitates sustainable travel patterns, with a particular focus on increasing the share of active modes (walking and cycling) and public transport use and creating a safe attractive street environment for pedestrians and cyclists'.

10.7.8. While capacity concerns are raised in relation to the Luas, it is an existing high capacity, high frequency, mode of transport proximate to the site capable of accommodating large numbers of people and peak hour volumes alone do not diminish the high level and frequency of service available. The Luas greenline is considered a strategic development corridor in the RSES. The site is within walking distance of commercial and community facilities, including local schools and there are also significant employers in the area. This area offers choice of modes of transport for peak hour movements. To develop sustainable communities, developments must be designed to enable a shift in modal split from private car to walking/cycling/public transport. I consider the site is ideally located and serviced in this regard. I am satisfied that the transport network (rail, bus, road, bicycle, and pedestrian) can cater for the increase in population anticipated by this development.

10.7.9. As noted previously, while the public transport network is limited at present due to the current Covid-19 pandemic, this is a relatively temporary situation and services will be capable of being increased when appropriate. In the interim, it is important that developments support and enhance existing cycle and pedestrian environments where possible, which is proposed in this application with improvements to Murphystown Road. Increased opportunities for walking and cycling will ultimately benefit all with the proposed development providing for a high level of connectivity into the surrounding network for these active modes.

10.7.10. A road safety audit has been submitted with the application, including an assessment of sightlines along Murphystown Road to ensure safety of pedestrians and cyclists. Should the Board be minded to grant permission, I recommend a condition in relation to implementation of the findings of the road safety audit, subject to agreement with the planning authority.

Car Parking

10.7.11. To serve the proposed 200 unit apartment development (20 x studio units; 72 x 1 bed units; 100 x 2 bed units; and 8 x 3 bed units), a single level basement is proposed which will accommodate car parking (with 160 No spaces) including universal access parking (6 No spaces) electrical charge points (14 No spaces), bicycle parking (408 No spaces), motorcycle parking (8 No spaces) and service areas. There are also 11 No car parking spaces, including 1 No universal access

space and 2 No electrical charge point spaces provided at the surface level, in addition to 24 bicycle spaces at the entrance to the development. The car parking provision equates to 0.8 spaces per unit.

- 10.7.12. Observer submissions contend the level of parking is substandard, is a material contravention of the development plan, will result in greater traffic congestion in the area and traffic hazards with parking in the surrounding areas.
- 10.7.13. Section 8.2.4.5 of the development plan relates to car parking standards. The standards are stated to be a guide on the number of required spaces acceptable for new developments. It is stated that the principal objective of the application of car parking standards is to ensure that, in assessing development proposals, appropriate consideration is given to the accommodation of vehicles attracted to the site within the context of Smarter Travel, the Government policy aimed at promoting modal shift to more sustainable forms of transport. It is stated that reduced car parking standards for any development may be acceptable dependant on a number of criteria listed including the location of development to town centre and district centres and high density commercial/business areas; proximity to public transport; precise nature and characteristics of the proposed development, and implementation of a travel plan where a significant modal shift towards sustainable travel modes can be achieved.
- 10.7.14. While the proposed level of parking is low per apartment unit, the context of the development in relation to its locational advantages adjoining a high frequency Luas route and in addition to its proximity to bus routes, which will be subject to Bus Connects upgrades, as well as the level of cycle infrastructure immediately adjoining the site, are all key factors which support a lower level of parking at a high density location such as this. The push toward more sustainable modes of transport over provision of high levels of parking, whether for storage or use, is supported by the Apartment Guidelines 2018. I note that within the submitted Travel Plan it is indicated that within the Electoral Division of Glencullen (in which the proposed development is located) the 55% target set out in the Dept of Transport Smarter Travel document for walking, cycling, public transport and car has been exceeded in this electoral division and was recorded in the 2016 Census at 57.26% of the population aged 5 years and over. Having regard to all of the above, I am satisfied with the level of parking proposed and given the standards in the development plan

are intended as a guide, I consider the proposal is in compliance with the development plan in relation to parking. I note that issues relating to illegal parking on the surrounding streets are a matter for An Garda Síochána and the Planning Authority and is outside the remit of this planning application.

10.7.15. In conclusion, I consider that the subject site is well served by public transport and adjoins high quality cycle and pedestrian facilities. The proposal will greatly improve pedestrian linkages and safety within the area. I have no information before me to believe that the proposal would lead to the creation of a traffic hazard or obstruction of road users and I consider the proposal to be acceptable in this regard.

10.8. Water Services Infrastructure

10.8.1. In term of site services, a new water connection to the public mains is proposed, together with a new connection to the public sewer. An Irish Water Pre-Connection Enquiry in relation to water and wastewater connections has been submitted by the applicant, as required. It states that subject to a valid connection agreement being put in place, the proposed connection to Irish Water network can be facilitated.

10.8.2. An Engineering Report was submitted with the application, as was a Site Specific Flood Risk Assessment.

10.8.3. There are no water courses on, or immediately adjacent to the site boundary. It is proposed that attenuated surface water run-off from the development will drain to the existing surface water drainage network at Murphystown Way. The rate of run-off is to be reduced in accordance with the GDSDS via a combination of green roof build up, permeable pavement, underground geo cellular attenuation storage, and a pond, in combination with flow control devices. A Storm Water Audit was undertaken and is included in the appendix of the Engineering Report.

10.8.4. The Site Specific Flood Risk Assessment (SSFRA) notes that as per the Dun Laoghaire-Rathdown County Development Plan contains a Composite Flood Zone Map the subject site is located in Flood Zone C where the risk of fluvial (river) and coastal (tidal) flooding is less than 0.1% AEP (i.e. there is a 0.1% chance of being exceeded in any year). Sources of flooding examined in the report include Tidal, Fluvial, Pluvial, Groundwater and Existing and Proposed Infrastructure. A Source – Pathway – Receptor model was produced to summarize the possible sources of floodwater, the people and assets (receptors) that could be affected by potential

flooding (with specific reference to the proposals) and the pathways by which flood water for a 0.1% AEP (Annual Exceedance Probability) and 1% AEP storms could reach the receptors. The site is located within the Loughlinstown River catchment. From the EPA maps, the Loughlinstown Stream is referred to as the Ballogan Stream and it is located approx. 420m south of the site. The proposed site is located outside the predicted 1% and 0.1% AEP flood extents for this stream. There is therefore no flood risk associated with fluvial flooding. Pluvial flooding and overland flow are considered minimal, and tidal flooding is considered negligible, as is the risk from groundwater flooding. Flood risk from the existing drainage and watermains is considered negligible, as is flood risk from the proposed drainage infrastructure. I accept the findings of the report.

10.9. Other Matters

Procedural Issues

- 10.9.1. The application was made and advertised in accordance with requirements of Section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016 and the accompanying regulations, including public consultation periods.
- 10.9.2. I note the submissions received refer to a lack of consultation and public participation in the SHD process. Consultation has been undertaken in compliance with the Planning and Development Act 2000, as amended, and the Planning and Development (Housing) and Residential Tenancies Act 2016.

Content of Drawings

- 10.9.3. Site plan A10-101 indicates distances to site boundaries of the proposed development.

10.10. Material Contravention – Building Height

- 10.10.1. The applicant has submitted a document titled 'Material Contravention Statement', which has been advertised in accordance with Section 8(1)(a)(iv)(II) of the Planning and Development (Housing) and Residential Tenancies Act 2016. The applicant considers the development may materially contravene the development plan with regard to building height as the proposed development is for 4-7 storeys, with the 7 storey building on the northeast corner of the site at the corner of Murphystown Road and Murphystown Way.

10.10.2. Appendix 9 of the Dun Laoghaire Rathdown Development Plan 2016-2022 sets out the Building Heights Strategy for the county. The CE Report consider that the proposed scheme, which includes a seven-storey building, contravenes the Dun Laoghaire-Rathdown Development Plan 2016-2022, which allows for four storeys at this location, up to a maximum of six. The CE Report states however, that the location of the proposed seven-storey Block to the north east at a significant distance from the Protected Structure militates against potential impacts that it could have on the Protected Structure.

10.10.3. The applicant considers permission should be granted on the basis of Section 37(2)(b)(a)(ii), (iii) and (iv) of the Planning and Development Act 2000 (as amended) having regard to the following:

- The emerging pattern of development in the area - permission has been granted for apartment developments along the Luas line greater than 7 storeys in height, including Aikens Village (5 storeys) and Bellarmine (6 storeys) to the west, Elmfield (5 storeys), Levmoos (7 storeys) at The Gallops to the east and Clay Farm (8 storeys) to the south. The Landscape and Visual Impact Assessment submitted with this application also demonstrates that the proposed height will be in keeping with the current urban context and the setting of Lisieux Hall (protected structure).
- SPPR3 of the Urban Development and Urban Height Guidelines, 2018 – the applicant states they comply with the criteria of those guidelines, with the development representing proper planning and sustainable development in accordance with national policy.
- Rebuilding Ireland The Government’s Action Plan on Housing and Homelessness – the plan seeks to improve the viability of housing construction and ensure that an average of 25,000 homes are produced every year in the period to 2021.
- The National Planning Framework 2040 – the NPF includes objectives that encourage increased residential densities through a range of measures including increased building heights (Objective 35).

10.10.4. 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.

10.10.5. With regard to S.37(2)(b)(i), the development is in accordance with the definition of Strategic Housing Development, as set out in section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016. The proposed development is of strategic importance to the consolidation of development in Leopardstown, in line with national policies to provide for compact growth within existing urban footprints, as supported by NPF 11, and consolidation of existing suburban areas of Dublin, as set out the Dublin MASP within the RSES. The site is in proximity to public transport and major employment facilities and is along the Luas greenline, which is considered a strategic development corridor. The application site has the potential to contribute to the achievement of the Government's policy to increase delivery of housing from its current under-supply as set out in Rebuilding Ireland Action Plan for Housing and Homelessness issued in July 2016.

10.10.6. There are no conflicting objectives within the Dun Laoghaire Rathdown County Development Plan 2016-2022, insofar as the proposed development is concerned.

10.10.7. With regard to S.37(2)(b)(iii), I consider the proposed development in terms of the density, layout and design is in accordance with national guidance, including the NPF, specifically NPO 13 and NPO 35, and the EMRA-RSES, which support

compact sustainable development along strategic development corridors. The proposed development is furthermore in compliance with the Urban Development and Building Height Guidelines in particular SPPR3, which references section 3.2 Development Management Criteria. I have assessed the proposed development against the section 3.2 criteria and I consider the site to be well served by high quality public transport, with high capacity, frequent service and good links to other modes of public transport, including bus, cyclepaths and pedestrian paths. The applicant has had regard to the existing protected structure of Lisieux Hall and the proposal in my opinion will, given the site context and proposed design, successfully integrate into the character of the area and successfully connect into the adjoining public realm. The proposal is of a high quality urban design and has incorporated existing trees into the layout where feasible. The form, massing and height of the proposed development has been adequately considered to ensure any impacts on sunlight/daylight/overshadowing are not significant. Having regard to the provisions of Section 37(2)(b)(iii), it is justified, in my opinion, to contravene the Dun Laoghaire-Rathdown County Development Plan 2016-2022 in relation to height.

10.11. Conclusion – Planning Assessment

10.11.1. Overall, in my opinion, the proposed development will support consolidation and densification in this area of Dublin in accordance with national and regional policy. The site is a zoned and serviced site, sufficiently connected by footpaths, cyclepaths, the luas, and bus network to existing services and amenities. While the site will result in the grounds of Lisieux Hall (protected structure) being reduced and a large scale development proposed in its place, I consider overall that the layout and design of the scheme has had adequate regard to the existing protected structure and trees on the site and the overall character and natural heritage of the area will not be so altered as to warrant a refusal of permission. The loss of trees will be appropriately mitigated by proposed planting and landscaping. I do not consider that the proposal, if permitted, would put undue strain on existing services and facilities in the area. In my opinion, the proposal will provide a high quality development, with an appropriate mix of units and an acceptable density of development catering to a range of people at varying stages of the lifecycle. The provision of public open space will enhance the amenity of the area for both existing and future occupiers. I consider the layout and design of the scheme has had

adequate regard to existing residential dwellings in the area and will not be seriously injurious to the residential or visual amenity of the area. I consider the proposed high density development in this urban location, with good public transport accessibility, is in accordance with the proper planning and sustainable development of the area.

11.0 Environmental Impact Assessment Screening

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

11.2. The site is a suburban site 1.19ha in area, within the curtilage of a protected structure. The proposed development is for 200 apartment units and a childcare facility. The site is on zoned and serviced land. It is sub-threshold in terms of EIA having regard to Schedule 5, Part 2, 10(b) (i) and (iv) of the Planning and Development Regulations 2001-2017.

11.3. The proposed development is not a large-scale project and the size and design of the proposed development would not be unusual in the context of a developing urban area. The proposed use as residential would not give rise to waste, pollution or nuisances that differed from that arising from the other housing in the vicinity and the site will connect to the public foul sewer, water and utilise the existing road network. The site is not designated for the protection of landscape or natural or cultural heritage. The proposed development is not likely to have a significant effect on any European designated site (as per the findings of section 13 of this assessment).

11.4. Having regard to:

- (a) The characteristics of the proposed development

(b) the nature and scale of the proposed development, on zoned lands served by public infrastructure,

(c) the absence of any significant environmental sensitivities in the area and the location of the development outside of any sensitive location specified in article 109(3) of the Planning and Development Regulations 2001 (as amended),

it is 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. Therefore, an Environmental Impact Assessment can, therefore, be excluded.

12.0 **Appropriate Assessment Screening**

Introduction

12.1.1. The application is accompanied by a Screening Statement for Appropriate Assessment (June 2020). In addition an Ecological Impact Statement and Arboricultural Report have been submitted. The Screening Statement concludes that the possibility of any significant impacts on any European Sites, whether arising from the project itself or in combination with other plans and projects, can be excluded beyond a reasonable scientific doubt on the basis of the best scientific knowledge available.

12.1.2. Having reviewed the documentation available to me, I am overall satisfied that there is adequate information available in respect of baseline conditions to clearly identify the potential impacts on any European site and I am satisfied that the information before me is sufficient to allow for screening for appropriate assessment of the proposed development.

Stage 1 Screening

12.1.3. The proposal comprises a residential development of 200 apartment units and a crèche in four blocks on a 1.19ha site, located in the suburb of Leopardstown, Co. Dublin. The site is a greenfield site. Boundaries consist of high walls, with tree planting across a landscaped garden area and avenue leading to Lisieux Hall (protected structure).

12.1.4. The site is not located within or directly adjacent to any European site. There are no water courses on the site. There are a number of short water courses in the vicinity of the site including the Carrickmines Stream and the Barnaculla Stream, which discharge into Dublin Bay. Rainwater on the site currently percolates to the soil or enters the local drainage network. The habitats on the site are described as maintained amenity grassland with a variety of trees and horticultural hedgerow. No species growing on the lands are listed as alien invasive species under Schedule 3 of S.I. 477 of 2011. There are no habitats which are examples of those listed in Annex I of the Habitats Directive and no evidence that species listed in Annex II of that Directive are present.

12.1.5. Surface water is proposed to be discharged to the existing network. SUDS systems are proposed including green roofs, permeable paving, trenches and a pond. An underground attenuation tank is proposed as are flow control devices. I note that these SUDS systems are standard in all new developments and are not included here to avoid or reduce an impact to a European site.

12.1.6. Wastewater from the development will pass via the public sewer to the Ringsend wastewater treatment plant, which discharges to Dublin Bay. Dublin Bay at this location is designated as part of South Dublin Bay SAC and South Dublin Bay and River Tolka Estuary SPA. In addition, the following European sites are present within the wider Dublin Bay complex; North Dublin Bay SAC, North Bull Island SPA, Howth Head SAC, Howth Head Coast SPA and Rockabill to Dalkey Islands SAC. Drinking water may be derived for the development from the Poulaphouca Reservoir, which is an SPA area.

Zone of Influence

12.1.7. A summary of European Sites that occur within the vicinity (15km radius) of the proposed development is set out in Appendix A.

12.1.8. With regard to direct impacts, the application site is not located adjacent or within a European site, therefore there is no risk of habitat loss, fragmentation or any other direct impacts. I am satisfied having regard to the nature and scale of the proposed residential development of 200 units on zoned and serviced land, the separation distance from European sites, the intervening uses, and the absence of direct source

– pathway – receptor linkages, that no Appropriate Assessment issues arise in relation to the European sites listed in Appendix A.

12.1.9. Any potential indirect impacts on European sites from the development would be restricted to the discharge of surface and foul water from the site. As noted the proposed drainage system ultimately discharges to Dublin Bay (post treatment at Ringsend wastewater treatment plant), where there are a number of European Designations. The qualifying interests/features of interest associated with the European sites closest to the site in Dublin Bay and connected hydrologically via the public surface water and foul sewer network are set out hereunder:

Table 2:

<p>South Dublin Bay SAC (000210) Approx. 4.9 km north of the proposed development</p>	<p>S. Dublin Bay & River Tolka Est. SPA (004024) Approx. 4.9 km north of the proposed development</p>
<p>Mudflats and sandflats not covered by seawater at low tide</p> <p>Annual vegetation of drift lines</p> <p>Salicornia and other annuals colonising mud and sand</p> <p>Embryonic shifting dunes</p>	<p>Light-bellied Brent Goose</p> <p>Oystercatcher</p> <p>Ringed Plover</p> <p>Grey Plover</p> <p>Knot</p> <p>Sanderling Dunlin</p> <p>Bar-tailed Godwit</p> <p>Redshank</p> <p>Black-headed Gull</p> <p>Roseate Tern</p> <p>Common Tern</p> <p>Arctic Tern</p> <p>Wetlands & Waterbirds</p>

- 12.1.10. The conservation objective relating to the South Dublin Bay SAC is 'To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected'.
- 12.1.11. The conservation objective relating to the North Dublin Bay SAC is 'To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected'.
- 12.1.12. Given the distance of 4.9 km between the application site and the European Sites identified within Dublin Bay and the intervening landuses, there is no pathway for loss or disturbance of species listed associated with these European sites or habitat loss, fragmentation or any other direct impacts. There are no ex-situ impacts given the habitats on the site.
- 12.1.13. With regard to potential for hydrological pathways, via surface and wastewater water flows to Dublin Bay via the Ringsend wastewater treatment plant, additional foul loading to Ringsend WWTP arising from the operation of this project is not considered to be significant given the scale of development proposed. The foul discharge from the site would be negligible in the context of the overall licenced discharge at Ringsend WWTP, thus its impact on the overall discharge would be negligible. The WWTP at Ringsend is operating above its capacity of 1.64 million P.E. (source, Irish Water 2017) with a current operational loading of c. 2.2 million P.E. The WWTP operates under a discharge licence from the EPA (D0034-01) and must comply with the licence conditions. The EPA is the competent authority in respect of issuing and monitoring discharge licences and the license itself is subject to the provisions of the Habitats Directive. Despite the capacity issues at Ringsend WWTP the Liffey Estuary and Dublin Bay are currently classified by the EPA under the WFD 2010-2015 as being of 'unpolluted' water quality status. Under the WDF 2010-2015, the Tolka Estuary is currently classified by the EPA as being 'Potentially Eutrophic'. The pollutant content of future discharges to Dublin Bay is likely to decrease in the longer term due to permissions granted for upgrade of the Ringsend WWTP (2019). It is also an objective of the GDSDS and all development plans in the catchment of Ringsend WWTP to includes SUDS within new developments and to protect water quality in the receiving freshwater and marine environments and to implement the WFD objective of achieving good water quality status in Dublin Bay. On the basis of the foregoing, I conclude that the proposed development will not

impact the overall water quality status of Dublin Bay and that there is no possibility of the proposed development undermining the conservation objectives of any of the qualifying interests or special conservation interests of European sites in or associated with Dublin Bay.

12.1.14. There are no surface water features on the site. The installation of surface water attenuation and SUDS systems will ensure that there will be no negative impact to water quality or quantity locally arising from the change in land use from greenfield to residential. I note that the proposed SUDS system is standard in all new developments and is not included here to avoid or reduce an impact to a European site. In the event that the pollution control and surface water treatment measures were not implemented or failed, I remain satisfied that the potential for likely significant effects on the qualifying interests of European 2000 sites in Dublin Bay can be excluded given the distant and interrupted hydrological connection, the nature and scale of the development and the distance and volume of water separating the application site from European 2000 sites in Dublin Bay (dilution factor).

12.1.15. In relation to in-combination impacts, given the negligible contribution of the proposed development to the wastewater discharge from Ringsend, I consider that any potential for in-combination effects on water quality in Dublin Bay can be excluded. Furthermore, other projects within the Dublin Area which can influence conditions in Dublin Bay via rivers and other surface water features are also subject to AA. In this way in-combination impacts of plans or projects are avoided.

Conclusion

12.1.16. Having regard to the nature and scale of the proposed development on fully serviced lands, to the intervening land uses and distance from European Sites, and lack of direct connections with regard to the source-pathway-receptor model, it is reasonable to conclude that on the basis of the information on file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on the above listed European Sites or any other European site, in view of the said sites' Conservation Objectives, and a Stage 2 Appropriate Assessment is not, therefore, required.

13.0 Recommendation

It is recommended that permission is granted, subject to conditions.

14.0 Reasons and Considerations

Having regard to the following:

- (a) the policies and objectives set out in the Dun Laoghaire Rathdown County Development Plan 2016-2022
- (b) the Rebuilding Ireland Action Plan for Housing and Homelessness, 2016
- (c) Urban Development and Building Heights, Guidelines for Planning Authorities, prepared by the Department of Housing, Planning and Local Government in December 2018,
- (d) 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 2013, as amended, the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, 2009
- (e) the Guidelines for Sustainable Residential Development 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,
- (f) the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities issued by the Department of the Environment, Community and Local Government in March 2018,
- (g) Architectural Heritage Protection – Guidelines for Planning Authorities, issued by the Department of Arts, Heritage and the Gaeltacht in October 2011,
- (h) the Planning System and Flood Risk Management for Planning Authorities (including the associated Technical Appendices), issued by the Department of the Environment, Heritage and Local Government in 2009,
- (i) the nature, scale and design of the proposed development,

- (j) the availability in the area of a range of social, community and transport infrastructure,
- (k) the pattern of existing and permitted development in the area,
- (l) the planning history of the site and within the area,
- (m) the submissions and observations received,
- (n) the report of the Chief Executive of Dun Laoghaire Rathdown County Council, and

it is considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable residential density, would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would be acceptable in terms of urban design, height and quantum of development 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.

15.0 Recommended Draft 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 24th June 2020 by BMA Planning and Development Consultants, on behalf of Ketut Ltd. on lands at Lisieux Hall, Murphystown Road, Leopardstown, Dublin 18.

Proposed Development:

The application is for a strategic housing development at this site of 1.19ha of the overall 1.85ha Lisieux Hall (protected structure) site bounded by Murphystown Road to the North, Ballyogan Road to the South, Murphystown Way to the East and Kilgobbin Road to the West. 'Lisieux Hall' (not within the current application site) is included on the Record of Protected Structures (RPS No. 1662).

The proposed development involves a total gross floor area (GFA) of 18,886sq.m and comprises:

- 200no. apartments (comprising 20no. studio units, 72no. 1 bed units, 100no. 2 bed units and 8no. 3 bed units) in 4 blocks including ancillary residential support facilities on the ground floor level of Block 1 and a creche on the ground floor of block 3 and a standalone ESB substation building.
- The proposed development includes the following accommodation on a block by block basis:-
 - Block 1: 67no. apartments, ancillary accommodation and associated balconies in a 7 storey block (6 storeys with setback penthouse above) comprising 4no. studio units, 27no. 1 bed, 31no. 2 bed and 5no. 3 bed. This block includes a meeting/function rooms (112sq.m), gymnasium (220sq.m) and concierge office facilities (35sq.m) which are ancillary to the apartments;
 - Block 2: 36no. apartments, ancillary accommodation and associated balconies in a 5 storey block (4 storeys with setback penthouse above) comprising 4no. studio, 9no. 1 bed and 23no. 2 bed;
 - Block 3: 60no. apartments, ancillary accommodation and associated balconies in a 6 storey block (5 storeys with setback penthouse above) comprising 6no. studio, 27no. 1 bed, 24no. 2 bed and 3no. 3 bed. Block 3 includes the creche (356sqm) at ground floor; and
 - Block 4: 37no. apartments, ancillary accommodation and associated balconies in a 5 storey block (4 storeys with setback penthouse above) comprising 6no. studio, 9no. 1 bed and 22no. 2 bed.
- The 4 blocks are connected by link corridors at ground floor level and are arranged around a central landscaped courtyard open to the south. The blocks are located above basement (1 level) which will accommodate 160 spaces car parking including universal access parking (6 spaces) electrical charge points (14 spaces), bicycle parking (408 spaces), motorcycle parking (8 spaces) and ancillary storage/bin storage and circulation areas. At surface level at the entrance to the development there are an additional 11no. car parking spaces, including 1no. universal access space, 2 electrical charge point spaces and 24 bicycle spaces. In total, 171 no. car parking spaces and 432 bicycle parking spaces are provided.

- Permission is also sought for hard and soft landscaping, play areas, lighting, standalone ESB Substation building with access from Murphystown Road (26sqm) and all associated site and development works, including proposals for off-site improvements to the Murphystown Road cul-de-sac. Vehicular access is provided from a single access point from Murphystown Road, to the north of the site. Pedestrian entrances are provided from Murphystown Road to the north, Kilgobbin Road to the west and Murphystown Way to east of the site. A new access point for the existing dwelling at Lisieux Hall is to be provided from Murphystown Way and will also provide emergency access to the proposed development. The proposed development involves the removal of portions of the perimeter boundary wall and what remains of the walled garden at Lisieux Hall (Protected Structure).

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 policies and objectives set out in the Dun Laoghaire Rathdown County Development Plan 2016-2022
- (b) the Rebuilding Ireland Action Plan for Housing and Homelessness, 2016

- (c) Urban Development and Building Heights, Guidelines for Planning Authorities, prepared by the Department of Housing, Planning and Local Government in December 2018,
- (d) 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 2013, as amended, the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, 2009
- (e) the Guidelines for Sustainable Residential Development 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,
- (f) the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities issued by the Department of the Environment, Community and Local Government in March 2018,
- (g) Architectural Heritage Protection – Guidelines for Planning Authorities, issued by the Department of Arts, Heritage and the Gaeltacht in October 2011,
- (h) the Planning System and Flood Risk Management for Planning Authorities (including the associated Technical Appendices), issued by the Department of the Environment, Heritage and Local Government in 2009,
- (i) the nature, scale and design of the proposed development,
- (j) the availability in the area of a range of social, community and transport infrastructure,
- (k) the pattern of existing and permitted development in the area,
- (l) the planning history of the site and within the area,
- (m) the submissions and observations received,
- (n) the report of the Chief Executive of Dun Laoghaire Rathdown County Council, and
- (o) the report of the inspector

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

Environmental Impact Assessment

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

Having regard to:

(a) the nature and scale of the proposed development on an urban site served by public infrastructure,

(b) the absence of any significant environmental sensitivities in the area,

(c) the location of the development outside of any sensitive location specified in article 109(3) of the Planning and Development Regulations 2001 (as amended),

the Board concluded that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment. The Board decided, therefore, that an environmental impact assessment report for the proposed development was not necessary in this case.

Conclusions on Proper Planning and Sustainable Development:

The Board considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable residential density, would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would be acceptable in terms of urban design, height and quantum of development 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.

The Board considered that a grant of permission for the proposed Strategic Housing Development would materially contravene the Dun Laoghaire Rathdown County Development Plan 2016-2022 in respect of building height.

The Board considers that, having regard to the provisions of section 37(2)(b)(i) and (iii) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of the Dun Laoghaire Rathdown County Development Plan 2016-2022 would be justified for the following reasons and considerations:

- In relation to section 37(2)(b)(i) of the Planning and Development Act 2000 (as amended): The proposed development is considered to be of strategic and national importance having regard to the definition of 'strategic housing development' pursuant to section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016 (as amended); to its support for the National Policy Objectives in the National Planning Framework, in particular Objective 11, its location within the MASP area along a strategic development corridor, on zoned and serviced lands, and its potential to contribute both to the achievement of the Government's policy to increase delivery of housing from its current under-supply as set out in Rebuilding Ireland Action Plan for Housing and Homelessness issued in July 2016.
- In relation to section 37(2)(b)(iii) of the Planning and Development Act 2000 (as amended):

It is considered that permission for the proposed development should be granted having regard to Government policies as set out in the National

Planning Framework, specifically National Policy Objectives 13, and 35; the provisions as set out in the 'Urban Development and Building Height Guidelines, Guidelines for Planning Authorities December 2018' (in particular Specific Planning Policy Requirement 3); and the 'Guidelines for Planning Authorities on Sustainable Residential Developments in Urban Areas May 2009' (in particular Chapter 5).

16.0 Conditions

1.	<p>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.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>The proposed development shall be amended as follows:</p> <ul style="list-style-type: none"> (a) The proposed gates to the pedestrian entrances in the northern, eastern and western boundaries of the site shall be omitted and these access points shall remain open to the public. (b) The proposed footpath along Murphystown Road shall be extended along the entire northern site frontage as far as Kilgobbin Road, where it shall tie in with the existing footpath. <p>Revised drawings showing compliance with this requirement shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interests of residential amenity.</p>

3.	<p>All recommended measures outlined in the submitted Ecological Impact Statement, Arboricultural Report and Tree Protection Plan shall be implemented in full.</p> <p>Reason: In the interests of biodiversity and protection of trees.</p>
4.	<p>Not more than 75% of residential units shall be made available for occupation before completion of the childcare facility unless the developer can demonstrate to the written satisfaction of the planning authority that a childcare facility is not needed (at this time).</p> <p>Reason: To ensure that childcare facilities are provided in association with residential units, in the interest of residential amenity.</p>
5.	<p>Details of the materials, colours and textures of all the external finishes to the proposed 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.</p> <p>Reason: In the interest of visual amenity.</p>
6.	<p>No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.</p> <p>Reason: To protect the residential amenities of property in the vicinity and the visual amenities of the area.</p>
7.	<p>Proposals for an estate name, 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).</p>

	<p>Reason: In the interest of urban legibility and to ensure the use of locally appropriate place names for new residential areas.</p>
8.	<p>Comprehensive details of the proposed public lighting system to serve the development shall be submitted to and agreed in writing with the planning authority, prior to commencement of development/installation of the lighting. The agreed lighting system shall be fully implemented and operational, before the proposed development is made available for occupation.</p> <p>Reason: In the interest of public safety and visual amenity.</p>
9.	<p>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.</p> <p>Reason: In the interests of visual and residential amenity.</p>
10.	<p>(a) The car parking facilities hereby permitted shall be reserved solely to serve the proposed development. 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.</p> <p>(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.</p> <p>Reason: To ensure that adequate parking facilities are permanently available to serve the proposed residential units (and the remaining development) [and also to prevent inappropriate commuter parking].</p>
11.	<p>Details of the bicycle parking space location, layout, storage arrangement, marking demarcation, and security provisions for bicycle spaces shall be submitted for the written agreement of the planning authority prior to</p>

	<p>commencement of development.</p> <p>Reason: To ensure that adequate bicycle parking provision is available to serve the proposed development, in the interest of sustainable transportation.</p>
12.	<p>Prior to the opening/occupation of the development, a Mobility Management Strategy (including an interim or temporary strategy reflecting any requirements or adjustments relating to Covid-19 movement and travel patterns) 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. Details may include the provision of centralised facilities within the development for bicycle parking, shower and changing facilities associated with the policies set out in the strategy. The interim or temporary strategy, where applicable, should reflect the requirements of DMURS Interim Advice Note – Covid Pandemic Response (May, 2020). The mobility strategy shall be prepared and implemented by the management company for all units within the development.</p> <p>Reason: In the interest of encouraging the use of sustainable modes of transport and reflecting the needs of pedestrians and cyclists during Covid-19 pandemic.</p>
13.	<p>A Quality Audit (which shall include a Road Safety Audit, Access Audit, Cycle Audit and a Walking Audit) shall be carried out at Stage 2 for the detailed design stage and at Stage 3 for the post construction stage. All audits shall be carried out at the Developers expense in accordance with the Design Manual for Urban Roads & Streets (DMURS) guidance and TII (Transport Infrastructure Ireland) standards. The independent audit team(s) shall be approved in writing by the Planning Authority and all measures recommended by the Auditor shall be undertaken unless the Planning Authority approves a departure in writing. The Stage 2 Audit reports shall be submitted for the written agreement of the Planning Authority prior to the commencement of development.</p>

	<p>Reason: In the interest of the proper planning and sustainable development of the area.</p>
14.	<p>All works to be carried out on the public road/footpath shall comply with the requirements of the planning authority. Full details of all required and proposed works to be carried out at Murphystown Road and Murphystown Way shall be agreed in writing prior to commencement of construction with the planning authority. Provision for cyclists shall comply with latest National Cycle Manual and DMURS guidance. Where possible new drainage manhole covers should not be located in cycle lanes.</p> <p>Reason: In the interest of the proper planning and sustainable development of the area.</p>
15.	<p>A minimum of 10% of all car parking spaces should be provided with functioning EV charging stations/points, and ducting shall be provided for all remaining car parking 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 have 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.</p> <p>Reason: To provide for and/or future proof the development such as would facilitate the use of Electric Vehicles.</p>
16.	<p>Drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Prior to commencement of development the developer shall submit to the Planning Authority for written agreement a Stage 2 - Detailed Design Stage Storm Water Audit.</p> <p>Upon Completion of the development, a Stage 3 Completion Stormwater Audit to demonstrate Sustainable Urban Drainage System measures have been installed, and are working as designed and that there has been no misconnections or damage to storm water drainage infrastructure during</p>

	<p>construction, shall be submitted to the planning authority for written agreement.</p> <p>Reason: In the interest of public health and surface water management.</p>
17.	<p>The site shall be landscaped (and earthworks carried out) in accordance with the detailed comprehensive scheme of landscaping, which accompanied the application submitted, unless otherwise agreed in writing with, the planning authority prior to commencement of development.</p> <p>All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.</p> <p>Reason: In the interest of residential and visual amenity.</p>
18.	<p>(a) Prior to commencement of development, all trees, groups of trees, hedging and shrubs which are to be retained shall be enclosed within stout fences not less than 1.5 metres in height. This protective fencing shall enclose an area covered by the crown spread of the branches, or at minimum a radius of two metres from the trunk of the tree or the centre of the shrub, and to a distance of two metres on each side of the hedge for its full length, and shall be maintained until the development has been completed.</p> <p>(b) No construction equipment, machinery or materials shall be brought onto the site for the purpose of the development until all the trees which are to be retained have been protected by this fencing. No work is shall be carried out within the area enclosed by the fencing and, in particular, there shall be no parking of vehicles, placing of site huts, storage compounds or topsoil heaps, storage of oil, chemicals or other substances, and no lighting of fires, over the root spread of any tree to be retained.</p> <p>(c) Excavations in preparation for foundations and drainage, and all works above ground level in the immediate vicinity of trees to be retained shall be carried out under the supervision of a specialist arborist, in a</p>

	<p>manner that will ensure that all major roots are protected and all branches are retained.</p> <p>Reason: To protect trees and planting during the construction period in the interest of visual amenity.</p>
19.	<p>A schedule of landscape maintenance shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development. This schedule shall cover a period of at least three years and shall include details of the arrangements for its implementation.</p> <p>Reason: To provide for the satisfactory future maintenance of this development in the interest of visual amenity.</p>
20.	<p>Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company or such other security as may be accepted in writing by the planning authority, to secure the protection of the trees on site to be retained and to make good any damage caused during the construction period, coupled with an agreement empowering the planning authority to apply such security, or part thereof, to the satisfactory protection of any tree or trees on the site or the replacement of any such trees which die, are removed or become seriously damaged or diseased within a period of [three] years from the substantial completion of the development with others of similar size and species. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.</p> <p>Reason: To secure the protection of the trees on the site.</p>
21.	<p>(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.</p>

	<p>(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.</p> <p>Reason: In the interest of residential amenity, and to ensure the provision of adequate refuse storage.</p>
22.	<p>The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of public open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development.</p> <p>Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.</p>
23.	<p>Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.</p> <p>Reason: In the interest of sustainable waste management.</p>
24.	<p>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:</p> <p style="padding-left: 40px;">a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;</p>

	<ul style="list-style-type: none"> b) Location of areas for construction site offices and staff facilities; c) Details of tree protection measures; d) Details of site security fencing and hoardings; e) Details of on-site car parking facilities for site workers during the course of construction; f) 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. g) Measures to obviate queuing of construction traffic on the adjoining road network; h) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network; 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) A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority. <p>Reason: In the interest of amenities, public health and safety.</p>
25.	<p>Site development and building works shall be carried out only between the hours of 0700 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</p>

	<p>been received from the planning authority.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
26.	<p>Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.</p> <p>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.</p>
27.	<p>The developer shall enter into water and/or waste water connection agreement(s) with Irish Water, prior to commencement of development.</p> <p>Reason: In the interest of public health.</p>
28.	<p>The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:</p> <p>(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and</p> <p>(b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.</p>

	<p>The assessment shall address the following issues:</p> <ul style="list-style-type: none"> (i) the nature and location of archaeological material on the site, and (ii) the impact of the proposed development on such archaeological material. <p>A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.</p> <p>In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.</p> <p>Reason: In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.</p>
29.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. 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.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the</p>

	Development Contribution Scheme made under section 48 of the Act be applied to the permission.
30.	<p>The developer shall pay to the planning authority a financial contribution in respect of the extension of Luas Line B1 – Sandyford to Cherrywood in accordance with the terms of the Supplementary Development Contribution Scheme, made by the planning authority under section 49 of the Planning and Development Act 2000, as amended. The contribution 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.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.</p>

Una O'Neill
Senior Planning Inspector

22nd September 2020

Appendix A:

European Site Name [Code] and Conservation Objective (CO)	Qualifying interest(s) / Special Conservation Interest(s) (*Priority Annex I Habitats)
South Dublin Bay SAC [000210]	<p>[1140] Mudflats and sandflats not covered by seawater at low tide</p> <p>[1210] Annual vegetation of drift lines</p> <p>[1310] <i>Salicornia</i> and other annuals colonising mud and sand</p> <p>[2110] Embryonic shifting dunes</p>
Rockabill to Dalkey Island SAC [003000]	<p>[1170] Reefs</p> <p>[1351] Harbour porpoise <i>Phocoena phocaena</i></p>
Wicklow Mountains SAC [002122]	<p>[3110] Oligotrophic waters containing very few minerals of sandy plains (<i>Littorelletalia uniflorae</i>)</p> <p>[3160] Natural dystrophic lakes and ponds</p> <p>[4010] Northern Atlantic wet heaths with <i>Erica tetralix</i></p> <p>[4030] European dry heaths</p> <p>[4060] Alpine and Boreal heaths</p> <p>[6130] <i>Calaminarian</i> grasslands of the <i>Violetalia calaminariae</i></p> <p>[6230] Species-rich <i>Nardus</i> grasslands, on siliceous substrates in mountain</p>

	<p>areas (and submountain areas, in Continental Europe)</p> <p>[7130] Blanket bogs (* if active bog)</p> <p>[8110] Siliceous scree of the montane to snow levels (<i>Androsacetalia alpinae</i> and <i>Galeopsietalia ladani</i>)</p> <p>[8210] Calcareous rocky slopes with chasmophytic vegetation</p> <p>[8220] Siliceous rocky slopes with chasmophytic vegetation</p> <p>[91A0] Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles</p> <p>[1355] <i>Lutra lutra</i> (Otter)</p>
Knocksink Wood SAC [000725]	<p>[7220] Petrifying springs with tufa formation (Cratoneurion)*</p> <p>[91E0] Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (Alno-Padion, Alnion incanae, Salicion albae)*</p>
Ballyman Glen SAC [000713]	<p>[7220] Petrifying springs with tufa formation (Cratoneurion)*</p> <p>[7230] Alkaline fens</p>
North Dublin Bay SAC [000206]	<p>[1140] Mudflats and sandflats not covered by seawater at low tide</p> <p>[1210] Annual vegetation of drift lines</p> <p>[1310] <i>Salicornia</i> and other annuals colonising mud and sand</p>

	<p>[1330] Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>)</p> <p>[1395] Petalwort <i>Petalophyllum ralfsii</i></p> <p>[1410] Mediterranean salt meadows (<i>Juncetalia maritimi</i>)</p> <p>[2110] Embryonic shifting dunes</p> <p>[2120] Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes)</p> <p>[2130] Fixed coastal dunes with herbaceous vegetation (grey dunes)</p> <p>[2190] Humid dune slacks</p>
Howth Head SAC [000202]	<p>[1230] Vegetated sea cliffs of the Atlantic and Baltic coasts</p> <p>[4030] European dry heaths</p>
Bray Head SAC [000714]	<p>Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]</p> <p>European dry heaths [4030]</p>
Glenasmole Valley SAC [001209]	<p>[6210] Semi-natural dry grasslands and scrubland facies on calcareous substrates (<i>Festuco-Brometalia</i>) (* important orchid sites)</p> <p>[6410] Molinia meadows on calcareous, peaty or clayey-silt-laden soils (<i>Molinion caeruleae</i>)</p> <p>[7220] Petrifying springs with tufa formation (<i>Cratoneurion</i>)</p>

Baldoyle Bay SAC [000199]	<p>[1140] Mudflats and sandflats not covered by seawater at low tide</p> <p>[1310] Salicornia and other annuals colonizing mud and sand</p> <p>[1330] Atlantic salt meadows (<i>Glaucopuccinellietalia maritimae</i>)</p> <p>[1410] Mediterranean salt meadows (<i>Juncetalia maritim</i>)</p>
Ireland's Eye SAC [002193]	<p>[1220] Perennial vegetation of stony banks</p> <p>[1230] Vegetated sea cliffs of the Atlantic and Baltic coasts</p>
Glen of The Downs SAC [000719]	<p>[91A0] Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles</p>
South Dublin Bay and River Tolka Estuary SPA [004024]	<p>[A046] Light-bellied Brent Goose <i>Branta bernicla hrota</i></p> <p>[A130] Oystercatcher <i>Haematopus ostralegus</i></p> <p>[A137] Ringed Plover <i>Charadrius hiaticula</i></p> <p>[A141] Grey Plover <i>Pluvialis squatarola</i></p> <p>[A143] Knot <i>Calidris canutus</i></p> <p>[A144] Sanderling <i>Calidris alba</i></p> <p>[A149] Dunlin <i>Calidris alpina</i></p> <p>[A157] Bar-tailed Godwit <i>Limosa lapponica</i></p> <p>[A162] Redshank <i>Tringa totanus</i></p>

	<p>[A179] Black-headed Gull <i>Croicocephalus ridibundus</i></p> <p>[A192] Roseate Tern <i>Sterna dougallii</i></p> <p>[A193] Common Tern <i>Sterna hirundo</i></p> <p>[A194] Arctic Tern <i>Sterna paradisaea</i></p> <p>[A999] Wetland and Waterbirds</p>
Dalkey Islands SPA [004172]	<p>[A192] Roseate Tern <i>Sterna dougallii</i></p> <p>[A193] Common Tern <i>Sterna hirundo</i></p> <p>[A194] Arctic Tern <i>Sterna paradisaea</i></p>
Wicklow Mountains SPA [004040]	<p>[A098] Merlin <i>Falco columbarius</i></p> <p>[A103] Peregrine <i>Falco peregrinus</i></p>
North Bull Island SPA [004006]	<p>[A046] Light-bellied Brent Goose <i>Branta bernicla hrota</i></p> <p>[A048] Shelduck <i>Tadorna tadorna</i></p> <p>[A052] Teal <i>Anas crecca</i></p> <p>[A054] Pintail <i>Anas acuta</i></p> <p>[A056] Shoveler <i>Anas clypeata</i></p> <p>[A130] Oystercatcher <i>Haematopus ostralegus</i></p> <p>[A140] Golden Plover <i>Pluvialis apricaria</i></p> <p>[A141] Grey Plover <i>Pluvialis squatarola</i></p> <p>[A143] Knot <i>Calidris canutus</i></p> <p>[A144] Sanderling <i>Calidris alba</i></p> <p>[A149] Dunlin <i>Calidris alpina</i></p>

	<p>[A156] Black-tailed Godwit <i>Limosa limosa</i></p> <p>[A157] Bar-tailed Godwit <i>Limosa lapponica</i></p> <p>[A160] Curlew <i>Numenius arquata</i></p> <p>[A162] Redshank <i>Tringa totanus</i></p> <p>[A169] Turnstone <i>Arenaria interpres</i></p> <p>[A179] Black-headed Gull <i>Croicocephalus ridibundus</i></p> <p>[A999] Wetlands & Waterbirds</p>
Howth Head Coast SPA [004113]	[A188] Kittiwake (<i>Rissa tridactyla</i>)
Baldoyle Bay SPA [004016]	<p>[A046] Light-bellied Brent Goose <i>Branta bernicla hrota</i></p> <p>[A048] Shelduck <i>Tadorna tadorna</i></p> <p>[A137] Ringed Plover <i>Charadrius hiaticula</i></p> <p>[A140] Golden Plover <i>Pluvialis apricaria</i></p> <p>[A141] Grey Plover <i>Pluvialis squatarola</i></p> <p>[A157] Bar-tailed Godwit <i>Limosa lapponica</i></p> <p>[A999] Wetland and Waterbirds</p>
Ireland's Eye SPA [004117]	<p>A017 Cormorant <i>Phalacrocorax carbo</i></p> <p>A184 Herring Gull <i>Larus argentatus</i></p> <p>A188 Kittiwake <i>Rissa tridactyla</i></p> <p>A199 Guillemot <i>Uria aalge</i></p> <p>A200 Razorbill <i>Alca torda</i></p>

