



An  
Bord  
Pleanála

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

### **Inspector's Report ABP-309430-21**

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#### **Strategic Housing Development**

698 no. student bedspace  
accommodation and associated site  
works.

#### **Location**

A site at Our Lady's Grove (which  
includes an existing childcare facility  
'The Grove After School Care', Our  
Ladys' Grove, Goatstown, Dublin 14.  
([www.ourladysgrovestudentshd.ie](http://www.ourladysgrovestudentshd.ie))

#### **Planning Authority**

Dun Laoghaire Rathdown County  
Council

#### **Applicant**

Colbeam Limited

#### **Prescribed Bodies**

Irish Water

**Observer(s)**

Adrian and Liza O'Connor  
Adrian Garvin and Cora Phelan  
Alan and Orla Leonard  
Amy O'Malley  
Anne Egan  
Avril Golden  
Barak Pearlmutter  
Beryl Power and Darren Reddy  
Billy Stirling  
Cathal Cavanagh  
Ciara McManus and John O'Carroll  
David Laird  
Ed and Mary Sherry  
Emma Reilly and Kieran Dunne  
Frank and Amy Shanahan  
Gerry and Anne Nangle  
Gladys Ruddock  
Guy and Laurie Easterby  
Hilary Gow  
Inland Fisheries Ireland  
Jacinta Bond  
Jamie Tratalos  
Janice Horner and Christophe  
Henry  
Jennifer O'Connor  
John Redmond  
Josepha Madigan  
Karl Murray  
Kathy Ann O'Cleirigh

Lisa Ryan and Laurent Muzellec  
Maeve O'Connor  
Mairead Cormican  
Margaret Murphy Biondi  
Maria Costello  
Maria Gardiner and Carl Byrne  
Mark and Deirdre Leonard  
Mary Brown  
Mary Madden  
Maura J Young and David Halpin  
Michael Frey  
Michael Lahiffe  
Michael Redmond  
Micheal O'Raghallaigh  
Nadine Farren and Alan  
Petherbridge  
Niamh and Brendan Howard  
Padraic and Philomena Collins  
Pat and Melanie Halpin  
Patrick and Ingeborg Walsh  
Paul and Frances Gorman  
Paul Brady  
Paul Coyle and Roisin Cleere  
Philippe Duval  
Robert and Ann Simmons  
Ronan and Celine Markey  
Rosemary Fox  
Ryan Sherlock and Melanie Spath  
Sarah Connolly

Seamus O'Donohoe

Shane Cotter

Shane McInerney

Suzanne Cotter

Teresa Egan

Triona MacGregor

Una O'Shea

Wendy Jennings

**Date of Site Inspection**

22<sup>nd</sup> April 2021

**Inspector**

Elaine Power

## 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 site is located at Our Lady's Grove, Goatstown Road, Dublin 4, c. 5 km south of Dublin city centre. The site is located in a suburban area, c. 180m west of Goatstown Road (R-825) and previously formed part of 'Our Lady's Grove' a former convent and school campus (6 ha). The overall landholding has been substantially redeveloped in the last c. 10-15 years, it currently contains a secondary school (Jesus and Mary College), a primary school (Our Lady's Grove), a childcare facility and a residential development (The Grove). The original Roebuck Grove House (Goatstown House) is retained in the centre of the overall campus to the east of the subject site and a Convent building (Errew House) is located in the south east portion of the landholding, with direct access onto Goatstown Road. Vehicular access to the campus is via Goatstown Road with an additional pedestrian access via Friarsland Avenue.
- 2.2. The surrounding area is residential in character with a mix of new apartment buildings up to 5 storeys in height along Goatstown Road, including 'The Grove' and 'Trimbleston' which comprises a mix of houses, duplexes and apartments and older suburban detached and semi-detached single and two storey housing in Friarsland Avenue, Friarsland Road and Larchfield Road.
- 2.3. The site has a stated area of 2.12 ha and includes part of an afterschool facility. The site is relatively flat and includes grass cover and disturbed ground. There are mature trees along the southern and western site boundaries and within the central section of the site. The site is bounded to the west by the rear gardens of houses on Friarsland Road and to the south by the rear gardens of houses on Larchfield Road. A recently constructed hockey pitch associated with the secondary school is located to the north of the site.

### 3.0 **Proposed Strategic Housing Development**

3.1. The proposed development comprises the demolition of part of the Goatstown Afterschool building (558sqm), the provision of a prefabricated structure (161sqm) to the south of the remaining building and the construction of a Student Accommodation development containing 698 no. bedspaces with associated facilities in 8 no. blocks. The development ranges in height from part 3-storey to part 7-storeys. The units comprise 679 no bedspaces in 99 no. clusters ranging in size from 5 no. bedspaces to 8 no. bedspaces. Each cluster includes a communal Living / Kitchen / Dining room. The remaining 19 no. bedspaces are accessible studios.

3.2. The development includes the provision of 349sqm of communal residential amenity space at lower ground floor level, including a movie room, a music room and a laundry room and 1,356sqm of communal residential amenity space at ground floor level including a gym, reception desk and seating area a common room, a study space, a library, a yoga studio, a prayer room and a group dining room.

3.3. The scheme also includes staff and administrative facilities (195sqm), 9 no. car parking spaces, 4 no. motor cycle spaces, 86 no. cycle parking spaces, refuse stores, signage, an ESB substation and switch room, boundary treatments, green roofs, PV panels, hard and soft landscaping, plant, lighting and all other associated site works.

3.4. The application included the following:

- Planning Report
- Material Contravention Statement
- Statement of Consistency
- Response to An Bord Pleanála Opinion
- Design and Access Statement
- Daylight and Sunlight Assessment Report
- Transportation Statement
- DMURS Design Statement – Technical Note
- Quality Audit including Road Safety Audit Stage 1
- Mobility Management Plan
- Site Specific Flood Risk Assessment

- Environmental Report
- Ecological Impact Assessment
- Appropriate Assessment Screening Report
- Arboricultural Report
- Universal Access Statement
- Student Accommodation Management Plan
- Infrastructure Design Report
- Construction and Environmental Management Plan
- Construction and Demolition Waste Management Plan
- Operational Waste Management Plan
- Ground Investigation Report
- Assessment of Potential Noise and Vibration Impacts
- Hydrological and Hydrogeological Qualitative Risk Assessment
- Mechanical and Electrical Services Installations
- Landscape and Visual Impact Assessment
- Landscape Development Report
- Verified Views and CGI's

#### 4.0 **Planning History**

There is a substantial planning history on the wider original 'Our Lady's Grove' landholding including the school sites to the north and north east and the residential area to the east. All relevant notable planning applications are as follows:

##### ***Subject Site***

- *Strategic Housing Application 304420-19*: Permission was granted in 2019 for 132 no. residential units (19 no. houses and 113 no. apartments) and a childcare facility on the subject site. This decision was subsequently quashed by the courts.
- *Reg. Ref. D10A/0255*: Permission granted in 2010 for the change of use to part of the ground floor of the existing convent to an after-school care facility and Montessori / pre-school centre together with general refurbishment works.

### ***Adjacent to East (Residential Area – The Grove)***

- *Reg. Ref. D11A/0595*: Permission granted in 2012 for amendments to permitted scheme (Reg. Ref. D06A/0858) comprising a reduction in the number of residential units from 102 no. units permitted to 40 no. units to comprise 17 no. apartments, 9 no. duplex units and 14 no. houses and change of use from childcare to residential of Roebuck Grove House, omission of basement car parking, alterations to access road and roundabout and associated works. An extension of duration of permission was granted in 2017 under *Reg. Ref. D11A/0595/E*.
- *Reg. Ref. D15A/0199*: Permission granted in 2015 for amendments to permitted scheme (Reg. Ref. D11A/0595) to replace permitted terrace 1 (4 no. apartments plus 4 no. duplex units) with a 4-storey building comprising 16 no. apartments.
- *Reg. Ref. D16A/212* – Permission was granted in 2017 for amendments to D11A/0595 primarily comprising alterations to Terraces 4, 5 and 6 reducing the permitted scheme's total number of residential units from 47 no. permitted to 41 no.

### ***Adjacent to North/North East (Educational Area)***

- *Reg. Ref. D20A/0198*: Permission granted in 2020 for the removal of a single storey pre-fabricated building (102sqm) and a 10m length of wall and the construction of a single storey prefabricated building (343sqm) for temporary use a childcare facility for a period of up to 6 months, after which the structure will be reduced to 162sqm and will be in permanent use as a school changing room.
- *Reg. Ref. D20A/0192*: Permission granted in 2020 for the removal of a single storey prefabricated building (102sqm) and a 10m length of wall and the construction of a single storey prefabricated building (162sqm) for use as a school changing room; the optional construction of a 181sqm single storey temporary extension to the east of the school changing room and the use of the entire structure (343sqm) as a temporary childcare facility for a period of up to



6 months, after which the temporary extension will be removed and the permanent structure (162sqm) will be used as a school changing room.

- *PL06.302898, Reg. Ref. D18A/0387*: Permission was granted in 2019 for a sports ground comprising a synthetic all-weather pitch on a c. 1.7ha site.
- *Reg. Ref. D07A/1504* – Permission was granted in 2008 for the construction of a two-storey Primary School building (2,640sqm gross floorspace) comprising 16 classrooms, 8 support teaching rooms, general purpose room (300sqm) and ancillary accommodation including the extension of the existing car park areas to provide for 103 no. permanent surface level car parking spaces for the overall school premises with a new access roundabout and associated external play spaces and associated site works. Retention permission was granted for the relocation of the temporary school car parking area (required for the period of construction) that differs from that granted under D06A/0858.
- *Reg. Ref. D06A/0858*: Permission was granted in 2007 for 109 no. residential units and a residential institutional building (convent).

### ***Surrounding Sites***

- *Strategic Housing Development Application ABP-308353-20*: Permission was granted in 2021 for the demolition of an existing building and hard surface parking area and the construction of 239 no. student bedspaces with amenity spaces, bicycle and car parking spaces and all associated site works on a site (Vector Motors) located c 260m south east of the subject site.
- *Reg. Ref. D20A/0268*: Permission was granted in 2020 for a temporary post primary school (4no. prefabricated buildings) for a period of 5 years on a site located c. 550m south of the subject site.
- *ABP-307015-21, Reg. Ref. D19A/0460*: Current third party appeal against a grant of permission for the demolition of an existing house and the construction of a 3-storey apartment building containing 9 no. apartments at 106 Goatstown Road, located c. 100m south east of the subject site.

## 5.0 Section 5 Pre-Application Consultation

5.1. A Section 5 pre-application virtual consultation took place on the 6<sup>th</sup> November 2020 in respect of a development comprising Student Accommodation containing 861 no. bedspaces. Representatives of the prospective applicant, the planning authority and An Bord Pleanála were in attendance. The main topics discussed at the meeting were

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- Compliance with local planning policy – institutional zoning and protection of trees
- Development Strategy – including density, building height, open space and architectural response to site context
- Concentration of student accommodation in the area
- Services, facilities and amenity areas for future occupants
- Issues raised in submission of Irish Water and the planning authority Drainage Section.

Copies of the record of the meeting and the inspector's report are on this file.

5.2. In the Notice of Pre-Application Consultation Opinion dated 30<sup>th</sup> November 2020 (ABP-307440-20) An Bord Pleanála stated that it was of the opinion that the documents submitted required further consideration and amendment in order to constitute a reasonable basis for an application for strategic housing development with regard to the following: -

**Item 1:** *Further consideration and / or justification of the documents as they relate to compliance with local planning policy. The further consideration and / or justification should address the objectives “to protect and / or provide for institutional use in open lands” and “to protect and preserve trees and woodlands” that pertain to the site having regard to the provisions of the Dun Laoghaire Rathdown Development Plan 2016-2022.*

**Item 2:** *Further consideration and / or justification of the documents as they relate to the development strategy for the site. The further consideration and / or justification should address the following matters:*

*(i) The density of development proposed having regard to the site's locational context.*

*(ii) The height, scale and massing of the proposed blocks and how the development responds to the receiving environment (the application should address the relationship with existing contiguous development on Friarsland Road to the west, Larchfield Road to the south, the Grove to the east and Roebuck Downs to the north); and*

*(iii) The architectural expression and detailing of the blocks, including but not limited to the composition of the elevations and materiality.*

*The further consideration / justification should have regard to, inter alia, the guidance contained in the Urban Development and Building Height Guidelines for Planning Authorities 2018; the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009) and the accompanying Urban Design Manual; and the Dun Laoghaire Rathdown County Development Plan 2016-2022.*

5.3. The opinion also stated that the following specific information should be submitted with any application for permission.

1. (a) Provide additional details in relation to the water and wastewater connections.
- (b) Provide additional drainage details.
2. An Architectural Design Statement.
3. A Materials Strategy that details all materials proposed for buildings, open spaces, paved areas and boundaries.
4. A Report that addresses the quantum and quality of services, facilities and amenities proposed
5. A Landscaping Plan
6. An updated Arboricultural Report
7. A report that addresses that impact of the proposed development on the amenity of existing residential units adjacent to the site
8. an Updated Daylight and Sunlight Analysis.
9. A Construction Waste Management Plan.

10. A Construction and Environmental Management Plan.

11. An Operational Waste Management Plan.

5.4. A list of authorities that should be notified in the event of making an application were also advised to the applicant and included:

- Irish Water
- Dun Laoghaire Rathdown County Childcare Committee

5.5. ***Applicant's Statement***

A statement of response to the Pre-Application Consultation Opinion was submitted with the application, as provided for under section 8(1)(iv) of the Act of 2016. The applicant addressed the items that required consideration and specific information to be submitted with the application.

The Items that required further consideration are summarised below: -

***Item 1:*** The applicant notes the zoning objective for the site and that the subject lands are largely not in institutional use. The only exception to this is a small portion of the site which provides the Afterschool building, the use of which is to remain. The lands are greenfield and not accessible to the public. In addition, the lands were sold by the Religious Congregation associated with Our Lady's Grove School because they were no longer required for 'institutional' use / expansion. Part of the original 'Institutional' lands originally owned by the Religious Congregation have already been developed to provide housing. Due to the inclusion of the 'INST' objective at the subject lands, some 25% of the site is required to be provided as open space. The scheme provides 7,956sqm public open space (37.5% of the site area) in the form of a parkland trail and active recreational zone and a total of 11,088sqm or 52% of the subject site as open space (including the afterschool site). The proposed development will for the first time make the subject site and the new public spaces fully open to the public which is a substantive planning gain having regard to the fact that the site is currently in private ownership and provides no recreational or amenity benefits.

The objective to '*Protect and Preserve Trees and Woodland*' is also noted. However, 34 no. trees are required to be removed as part of the development and thus a planting

plan which involves the replacement of 56 No. trees is proposed, resulting in a net gain of 22 No. trees upon completion of the proposed development. It is considered that this proposal is in line with the Development Plan objectives, however, this matter is addressed in the Material Contravention Statement.

***Item 2:***

*Density:*

The scale and density of the scheme was reduced from the 861 no. bedspaces, applied for at pre-application stage, to 698 no. bedspaces sought in the subject application.

The proposed student scheme cannot be assessed in accordance with density criteria for standard housing / apartment development. Whilst student accommodation is a type of residential development, it has its own use class and cannot be assessed in terms of units per hectare due to the wide range of unit types that can be provided from small studios to medium size clusters or larger clusters resulting in a quantitative standard that is not comparable to apartment / housing residential developments. It is thus not possible to accurately determine the density of a student scheme.

The density of the scheme on a per cluster basis the scheme comprises a density of 55.6 no. clusters per hectare (99 No. clusters + 19 No. studios)/2.12 ha). Due to the scale and massing of the scheme, it may be considered that it would have a higher net density equivalent than 35 - 50 residential units p/ha and thus the density of the scheme has been included in the enclosed Material Contravention Statement. In our opinion the density proposed is appropriate having regard to the site context, location, and National, Regional and Local level planning policy.

*Height, Scale and Massing*

A variety of design changes were made to the scheme in response to the Board's Opinion including a reduction in the height of the proposed northern, middle and southern blocks by a floor level, to part 5 no. to part 6 no. storeys over lower ground (legible as 7 no. storeys from an internal courtyard at lower ground level). The Mews

Blocks remain part 3 no. to part 4 no. storeys in height. The maximum overall height of the proposed development is now 18.030m from ground level.

Appendix 9 of the Development Plan sets out the policy for 'Residual Suburban Areas not included within Cumulative Areas of Control' and states that apartment or town-house type developments in the established commercial core of these areas to a maximum of 3-4 storeys may be permitted in appropriate locations. The plan further states that there will be situations where a minor modification up or down in height could be considered. Having regard to the planning gain that will be provided in contributing to the public realm and the size of the site it is considered that the subject lands are suitable for upward modifiers.

As the proposed development is 6 no. storeys in height as viewed from surrounding properties with an internal lower courtyard providing 7 no. storeys. It is considered that the development exceeds the heights indicated in Appendix 9 of the *Dun Laoghaire-Rathdown Development Plan 2016-2022*.

The *Urban Development and Building Heights Guidelines for Planning Authorities (December 2018)* take precedence over the Development Plan. In particular, SPPR 1 of the Guidelines notes that blanket numerical limitations on building height shall not be provided for through statutory plans therefore the imposition of a restriction at the subject site would be contrary to SPPR 1. Therefore, the height proposed in the subject scheme has taken the opportunity to explore the potential for increased height, rising to a height of 18.030m from ground level and 21.380m from lower ground level.

Despite the proposed increase in height, it has been demonstrated in the accompanying documentation, particularly the Landscape Visual Impact Assessment and Daylight/Sunlight Analysis, that the subject scheme will not have a significant material impact on the residential amenity of existing surrounding dwellings. It is considered that the height proposed can be absorbed at the location of the subject lands due to the generous setbacks provided from sensitive boundaries and the design of the scheme which has sought to reduce bulk and massing at locations close to site boundaries.

## *Architectural Expression*

Section 7.0 of the Design and Access Statement outlines how the Architectural Expression of the proposed development is derived from 4 No. main factors:

### *1. Analysis of the Existing Context*

In designing the subject scheme, the architect had due regard to the surrounding context of the subject site, which is comprised of two main buildings types, residential dwellings of differing scales to the south, east and west and the primary and secondary school buildings to the north. The height, scale and massing of the proposed development has been modulated according to the surrounding context of the subject site, with the lower part 3 no. to part 4 no. mews blocks located adjacent to the residential dwellings to the south and east and the higher part 5 no. to part 6 no. storey blocks located to the centre and north of the subject site, where there are less sensitivities.

### *2. Functional Requirements of the Proposed Buildings*

The functional requirements of the subject scheme can be divided into 4 No. key areas: the student bedspaces; the front of house and common areas; back of house; and external recreation / amenity.

### *3. Synthesis of Context and Function to Produce Composition*

To facilitate the use and to maximise the sites potential the proposal takes the form of three student room wings, north, central, south with a further smaller scale accommodation at the southern boundary. The proposed blocks are orientated east/west which creates the northern/central/southern courtyards. This orientation also presents the narrow elevations to the main approach to the scheme along the internal access road and allows for the provision of extensive public and communal open space ensuring the retention of the open space character of the subject site.

### *4. The Material Strategy*

It is intended that the Materials Strategy comprised of a combination of high-quality brickwork and high quality re-constituted stone, will produce a distinctive character which will fit in well with the existing material context.

The applicant addressed items 1-11 of the specific information to be submitted with the application. Items of note are outlined below: -

**Item 1: (a)** An Infrastructure Design Report has been submitted addressing concerns raised in relation to the water and wastewater connections. A copy of Irish Water's Statement of Design Acceptance is also included.

**Item 1(b)** An Infrastructure Design Report, A Ground Investigations Report, A Construction Management Plan, A Stormwater Audit and associated drawings have been submitted addressing concerns raised in relation to surface water run off / drainage.

**Item 2:** A detailed Architectural Design and Access Statement has been submitted which includes a rationale and justification for the height, scale and mass of the proposed blocks.

**Item 3:** A Materials Strategy is outlined in Section 12 of the Design and Access Statement.

**Item 4:** A report that addresses the quantum and quality of services, facilities and amenities has been submitted. The amenity space within the development is divided into (1) publicly accessible amenity spaces, (2) student external amenity space, and (3) student internal amenity space.

**Item 5:** A Landscaping Plan has been submitted.

**Item 6:** An Arboricultural Report and drawing has been submitted.

**Item 7:** The Design and Access Statement addresses the potential for overlooking, overshadowing and overbearing impact on adjoining residential properties.

**Item 8:** A detailed Daylight and Sunlight Analysis report has been submitted.

**Item 9:** A Construction Waste Management Plan has been submitted.

**Item 10:** A Construction and Environmental Management Plan has been submitted.

**Item 11:** An Operational Waste Management Plan has been submitted.



## 6.0 Relevant Planning Policy

### 6.1. Dun Laoghaire Rathdown County Development Plan 2016-2022

The site is zoned 'Objective A' with the associated land use objective 'to protect and/or improve residential amenity'. Residential uses, the definition of which includes student accommodation, is listed as a 'permissible use' on these lands and is considered an appropriate use for the site.

The site is subject to the specific local objective 'INST' which seeks to protect and / or improve Institutional use in open lands.

There is also an objective on site to protect and preserve trees and woodlands.

Chapter 2 of the Plan notes that the Council is required to deliver 30,800 units over the period 2014-2022. Figure 1.3 of the Plan indicates that there are approx. 410 ha of serviced land available which could yield 18,000 residential units. Section 1.2.5 of the Plan states '*in addition to the major parcels of zoned development land above, the ongoing incremental infill and densification of the existing urban area will generate, overtime and on a cumulative basis, relatively significant house numbers*'

**Policy RES5:** '*Where distinct parcels of land are in institutional use (such as education, residential or other such uses) and are proposed for redevelopment, it is Council policy to retain the open character and/or recreational amenity of these lands wherever possible, subject to the context of the quantity of provision of existing open space in the general environs.*'

**Section 2.1.3.5 RES5 Institutional Lands:** ... '*Where no demand for an alternative institutional use is evident or foreseen, the Council may permit alternative uses subject to the zoning objectives of the area and the open character of the lands being retained. A minimum open space provision of 25% of the total site area (or a population based provision in accordance with Section 8.2.8.2 whichever is the greater) will be required on Institutional Lands. This provision must be sufficient to maintain the open character of the site with development proposals structured around existing features and layout, particularly by reference to retention of trees, boundary walls and other features as considered necessary by the Council (Refer also to Section 8.2.3.4(xi) and 8.2.8). In*

*the development of such lands, average net densities should be in the region of 35 - 50 units p/ha. In certain instances, higher densities will be allowed where it is demonstrated that they can contribute towards the objective of retaining the open character and/or recreational amenities of the lands. In cases of rationalisation of an existing institutional use, as opposed to the complete cessation of that use, the possible need for the future provision of additional facilities related to the residual retained institutional use retained on site may require to be taken into account. (This particularly applies to schools where a portion of the site has been disposed of but a school use remains on the residual part of the site.)'*

***Policy RES12 Provision of Student Accommodation:*** *It is Council policy to facilitate student accommodation on student campuses or in locations which have convenient access to Third Level colleges (particularly by foot, bicycle and high quality and convenient public transport) in a manner compatible with residential amenities. In considering planning applications for student accommodation the Council will have regard to the 'Guidelines on Residential Developments for Third Level Students' and its July 2005 Review (particularly in relation to location and design).*

***Section 8.2.3.4 (vii) Student Accommodation:*** *...Given the growth in recent years of the number of third level students, together with the planned expansion of the County's major educational facilities, there is a demand for specific residential accommodation to cater for this need. The Council will support the provision of on-campus accommodation and may also permit student accommodation off-campus. When dealing with planning applications for such developments a number of criteria will be taken into account including:*

- *The location of student accommodation within the following hierarchy of priority:*
  - *On Campus*
  - *Within 1km distance from the boundary of a Third Level Institute*
  - *Within close proximity to high quality public transport corridors (DART, N11, cycle and pedestrian routes and green routes*

*In all cases such facilities will be resisted in remote locations at a remove from urban areas.*

Section 8.2.3.4 (vii) also states that regard should be had to the potential impact on residential amenities; the level and quality of on-site facilities; the architectural quality of the design and also the external layout and the number of existing similar facilities in the area. In addition, all applications should include a written documentary confirmation for a 'Qualifying Lease' - to prove that the accommodation is let to students. No social/affordable housing will be required in instances where it is proposed that student accommodation is to be provided on the campus of a recognised third level institution.

All permissions for student housing shall have a condition attached requiring planning permission for a change of use from student accommodation to other type of accommodation. Future applications for this type of change of use will be resisted except where it is demonstrated that continuing over-provision of student accommodation exists in the County.

**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.*

**Section 8.2.3.4 (xi) Institutional Lands:** *'Where no demand for an alternative institutional use is evident or foreseen, the Council may permit alternative uses subject to the area's zoning objectives and the open character of the lands being retained...In order to promote a high standard of development a comprehensive masterplan should accompany a planning application for institutional sites... A minimum open space provision of 25% of the total site area (or a population based provision in accordance with Section 8.2.8.2 whichever is the greater) will be required on Institutional Lands. This provision must be sufficient to maintain the open character of the site...In addition to the provision of adequate open space, on Institutional Lands where existing school uses will be retained, any proposed residential development shall have regard to the future needs of the school and allow sufficient space to be retained adjacent to the school for possible future school expansion/ redevelopment.'*

**Section 8.2.8.2 'Public / Communal Open Space:** *For all developments with a residential component – 5+ units - the requirement of 15sqm 20sqm of Open Space per person shall apply based on the number of residential/housing units... A lower*

*quantity of open space (below 20sqm per person) will only be considered acceptable in instances where exceptionally high quality open space is provided on site and such schemes may be subject to financial contributions as set out under Section 8.2.8.2 (iii) below’.*

**Section 8.2.8.6 Tree and Hedgerows:** *‘New developments shall be designed to incorporate, as far as practicable, the amenities offered by existing trees and hedgerow and new developments shall have regard to objectives to protect and preserve trees and woodlands as identified on the County Development Plan Maps...’*

**Section 7.6 of Appendix 2: Student Accommodation:** *It is recognised that there is a need to provide student accommodation for students studying both within and outside the County. The Council will support the provision of on-campus student accommodation and may also permit student accommodation off-campus where the proposed development:*

- *Is located within one pedestrian kilometre from the boundary of a Third Level Institution or proximate to existing or planned public transport corridors, cycle and pedestrian routes and green routes.*
- *Complies with the Department of Education and Science Guidelines on „Residential Development for Third Level Students“. (Refer also Section 8.2.3.4 (xi) of the Written Statement).*

No social housing will be required in instances where it is proposed that student accommodation is to be provided on the campus of a Third Level Institution. In all other instances of student accommodation the standard 20% social housing requirement will apply.

**Section 3.1 of Appendix 16: Requirements for Various Land Uses:** A Green Roof proposal is a requirement for all roof areas greater than 300 square metres... or alternative “soft” SUDS (Sustainable Drainage Systems)\* measures being proposed...

A Green Roof, where required, shall in all cases cover a minimum of 60% of the Roof area.

The following are also considered to be relevant. Chapter 2: Sustainable Communities, Chapter 5: Physical Infrastructure Strategy Chapter 8: Principles of Development and

Appendix 9: Building Height Strategy, Policy UD1: Urban Design Principles, Policy UD2: Design Statements, Policy UD3: Public Realm Design

Road is identified as a proposed quality bus/bus priority route, however the Bus Connects corridor does not include the Goatstown Road.

6.2. ***Eastern and Midland Regional Assembly – Regional Spatial and Economic Strategy (RSES) 2019.***

The RSES is underpinned by key principles that reflect the three pillars of sustainability: Social, Environmental and Economic, and expressed in a manner which best reflects the challenges and opportunities of the Region. It is a key principle of the strategy to promote people's quality of life through the creation of healthy and attractive places to live, work, visit and study in.

The site is located with the 'Dublin Metropolitan Area'. The Metropolitan Area Strategic Plan (MASP), which is part of the RSES, seeks to focus on a number of large strategic sites, based on key corridors that will deliver significant development in an integrated and sustainable fashion. The followings RPOs are of particular relevance:

***RPO 5.4:*** Future development of strategic residential development areas within the Dublin Metropolitan Area shall provide for higher densities and qualitative standards set out in the 'Sustainable Residential Development in Urban Areas'. 'Sustainable Urban Housing; Design Standards for New Apartment' Guidelines, and Draft 'Urban Development and Building Heights Guidelines for Planning Authorities'.

***RPO 5.5:*** Future residential development in the Dublin Metropolitan Area shall follow a clear sequential approach, with a primary focus on the consolidation of Dublin and suburbs, supported by the development of Key Metropolitan Towns in a sequential manner as set out in the Dublin Area Strategic Plan (MASP) and in line with the overall settlement strategy for the RSES.

6.3. ***National Planning Framework (2018)***

The National Planning Framework addresses the issue of 'making stronger urban places' and sets out a range of objectives which it considers would support the creation of high quality urban places and increased residential densities in appropriate locations while

improving quality of life and place. Table 4.1 of the framework sets growth targets for Dublin City and Suburbs, proposing a 20-25% growth in population to 2040. In achieving this, it places a great emphasis on compact growth requiring a concentration of development within the existing built-up area, including increased densities and higher building format than hitherto provided for. Brownfield sites, in particular, are identified as suitable in this context.

At Section 6.6 - housing, the framework refers specifically to student accommodation. It notes that accommodation pressures are anticipated to increase in the years ahead and indicates preferred locations for purpose-built student accommodation proximate to centres of education and accessible infrastructure such as walking, cycling and public transport. It also notes that the National Student Accommodation Strategy supports these objectives.

Relevant Policy Objectives include: -

- National Policy Objective 4: Ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being.
- National Policy Objective 13: In urban areas, planning and related standards, including in particular building height and car parking, will be based on performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.
- National Policy Objective 33: Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.
- National Policy Objective 35: Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

6.4. ***The National Student Accommodation Strategy 2017***

The National Student Accommodation Strategy issued by the Department of Education and Skills in July 2017 aims to ensure an increased level of supply of purpose-built student accommodation (PBSA). Key national targets include the construction of at least an additional 7,000 PBSA bedspaces by end 2019 and at least an additional 21,000 bedspaces by 2024. It states that 12,432 spaces were available in Dublin in 2017 and projects that 35,806 would be required there in 2019 and 42,375 in 2024. A progress report issued in November 2019 reported that 8,229 PBSA bed spaces were completed by the end Q3, 2019, 5,254 further bed spaces were under construction, with planning permission granted for another 7,771 and sought for 2,359.

6.5. ***Section 28 Ministerial Guidelines***

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

- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas' (including the associated 'Urban Design Manual') 2009.
- 'Design Manual for Urban Roads and Streets' 2013.
- 'Urban Development and Building Heights – Guidelines for Planning Authorities', 2018.

6.6. ***Other relevant guidance:***

- DHPCLG Circular PL8/2016 APH 2/2016 (July 2016): Encourages co-operation between local authorities and higher education institutes in the provision of student housing. Indicates that student accommodation should not be used for permanent residency but can be use by other persons/groups during holiday periods.
- Guidelines on Residential Developments for 3<sup>rd</sup> Level Students - Section 50 Finance Act, Department of Education and Science, 1999

- Matters Arising in Relation to the Guidelines on Residential Developments for 3<sup>rd</sup> Level Students (Section 50 Finance Act 1999), Department of Education and Science, 2005.
- Report on Student Accommodation: Demand and Supply, Higher Education Authority, 2015

## 6.7. ***Material Contravention Statement***

6.7.1. The applicant submitted a Material Contravention Statement. The statement provides a justification for the material contravention of the Dun Laoghaire Rathdown Development Plan 2016 - 2022 in relation to (i) Building Height, (ii) Density, (iii) Public Open Space, (iv) Tree Removal, (v) Car Parking, (vi) Green Roofs, and (vii) Part V / Social / Affordable Housing. The statement is summarised below: -

***Building Height:*** The maximum height of the proposed development is 18m from ground floor level (6 no. storeys) due to the topography of the site the maximum height of the development is 7 no. storeys (21.3m), however, the north courtyard is positioned at lower ground floor level and therefore the scheme would be legible as 6 no. storeys from surrounding location, external to the site.

Appendix 9 of the development plan sets out the Building Height Strategy. With regard to suburban infill locations it states that when a proposed development is in context and scale with its surroundings heights may be increased beyond the standard 2-3 storeys. The surrounding heights range from single storey houses to a 5-storey apartment development. The proposed development exceeds the height of some adjacent buildings by only 2-storeys. It further notes that an additional 3-4 storeys may be permissible for apartment or town house developments in the established commercial core areas in appropriate locations.

The subject site is suitable for upward modifiers having regard to the planning gain that would be provided in contribution to the public realm and the size of the site which is greater than 0.5ha, can set its own context for development with greater building heights set away from the boundaries. It is considered that the proposed building height material contravenes the development plan.



In this instance the increased height should be considered in the context of SPPR1 of the Urban Building Height Guidelines, 2018 which notes that blanket numerical limitations on building height shall not be provided for through statutory plans, therefore, the imposition of a restriction at the site would be contrary to SPPR1.

The policy and objectives of the development plan do not accord with national policy, in particular the National Planning Framework and Building Height Guidelines. Therefore, the proposed material contraventions are justified by reference to section 37(2)(b)(iii) of the act.

Having regard to recent grants of planning permission for developments which exceed the height limits set out in the plan, the proposed material contraventions are justified by reference to section 37(2)(b)(iv) of the act.

**Density:** There is an INST objective relating to the subject site. In accordance with Policy RES5 and Section 2.1.3.5 of the development plan the average net density on institutional lands should be in the region of 35-50 units per ha. This density relates to housing units. There is no standard for student accommodation.

As per the Sustainable Residential Development in Urban Areas (2009) guidelines, net density is a standard developed for the assessment of residential uses. Whilst student accommodation is a type of residential development, it has its own use class and cannot be assessed in terms of units per ha due to the wide range of unit types that can be provided from small studios to medium sized clusters or larger clusters resulting in a quantitative standard that is not comparable to apartment / housing developments. Therefore, it is not possible to accurately determine the density of a student scheme in an equivalent method to providing the density of a residential housing / apartment development.

It is noted during pre-planning discussions the planning authority referred to a density of the scheme based on clusters. In this regard, the proposed scheme comprises a density of 55.6 no. clusters per ha (99 no. clusters and 19 no. studios / 2.12 ha).

Due to the scale and massing of the scheme, it may be considered that the development would have a higher net density than set out in the development plan. It is also noted that the INST objective states that 'in certain instances, higher densities

will be allowed where it is demonstrated that they can contribute towards the objective of retaining the open character and / or recreational amenities of the lands’.

The policy and objectives of the development plan do not accord with national policy, in particular the National Planning Framework and Building Height Guidelines. Therefore, the proposed material contraventions are justified by reference to section 37(2)(b)(iii) of the act.

**Open Space:** The INST objective and Section 2.13.5 and Section 8.2.3.4 (xi) of the development plan require that 25% of the site be provided as open space. The proposed development includes 7,956sqm of public open space (37.5%) of the site. It also includes 2,852sqm of external open space for the students which would contribute to the open space and character of the scheme. In addition, 280sqm of open space is also be provided for the afterschool facility. Therefore, the proposed scheme includes a total of 11,088sqm of open space or 52% of the site.

Section 8.2.8.2 of the development plan requires the provision of 15sqm – 20sqm of open space per residential / housing unit. Therefore, there is a requirement for 10,470sqm – 13,960sqm of open space (698 no. bedspaces by 15sqm – 20sqm). It is considered that due to the nature of the scheme this policy does not apply. It is also considered that requiring such a substantive amount of residentially zoned urban land to be dedicated to open space would not be in the interest of sustainable planning and maximising efficiencies of scarce urban land.

**Trees:** The subject site includes an objective to ‘protect and preserve trees and woodland’. Section 8.2.8.6 of the plan states that new developments shall be designed to incorporate as far as practicable the amenities offered by existing trees and hedgerows and new developments shall have regard to objectives to protect and preserve trees and woodlands. It further states, where it proves necessary to remove trees to facilitate development, the council will require commensurate planting or replacement trees and other plan material. The proposed development would result in the loss of 34 no. trees and the provision of 56 no. replacement trees, resulting in a net gain of 22 no. trees.

**Car Parking:** The proposed development provides 9 no. car parking spaces, including 2 no. accessible spaces and 1 no. car sharing space. Tables 8.2.3 and 8.2.4 of the

development plan set out car parking standards. There is no standard for student accommodation. It is also noted that Table 8.2.3 acknowledges that standards are depending on design and location. It is considered that the proposed development does not contravene the plan.

It is considered that car parking standards for student use are not clearly stated, therefore, the proposed material contraventions are justified by reference to section 37(2)(b)(ii) of the act.

**Green Roofs:** Section 3.1 of Appendix 16 of the development plan requires that green roofs, where required, shall cover a minimum of 60% of the roof area. The submitted Infrastructure Design Report provides details the green roof extents and PV panel design. It is noted that 55% of the roof area would be green roofs and the remaining 45% would be utilised for PV panels, lift access opes and buffer areas. Other SuDS measures are proposed to make up the shortfall (5.2%). It is considered that the additional SuDS measures bring the proposed development into compliance with the green roof policy.

**Part V Social / Affordable Housing:** Section 7.6 of Appendix 2 of the development plan which notes that no social housing will be required in instances where it is proposed that student accommodation is to be provided on the campus of a third level institution. In all other instances of student accommodation, the standard 20% social housing requirement will apply.

It is note proposed to provide Part V social housing as it is not applicable to student accommodation developments, as it does not constitute a house. There would clearly be significant management difficulties that would arise in applying Part V to student accommodation.

It is considered that Part V requirement should have regard to Policy RES2: implementation of Interim Housing Strategy which allow for specific exemptions to Part V where a reduced social and affordable element may be acceptable are third level student accommodation. Therefore, the proposed material contraventions are justified by reference to section 37(2)(b)(ii) of the act.

The policy and objectives of the development plan do not accord with national policy, in particular the Apartment Guidelines. Therefore, the proposed material contraventions are justified by reference to section 37(2)(b)(iii) of the act.

Having regard to recent grants of planning permission for student accommodation developments which did not include Part V provision the proposed material contraventions are justified by reference to section 37(2)(b)(iv) of the act.

- 6.7.2. Having regard to the above it is considered that the proposed material contraventions are justified by reference to section 37(2)(b)(ii) 37(2)(b)(iii) 37(2)(b)(iv) of the act. It is also considered that the proposed development falls within the definition of Strategic or National Importance and is, therefore, justified by Section 37(2)(b)(i) of the act.

## 7.0 **Third Party Submissions**

- 7.1. 64 no. third party submissions were received. The concerns raised are summarised below: -

### ***Principle of Development***

- The proposed development contravenes the INST objective as the public open space is not sufficient; the open character would be lost; there is a lack of sufficient space for future expansion of the schools; increased density; increased building heights; and the trees have not been protected.
- The scheme does not address concerns raised at pre-planning stage by the planning authority and An Bord Pleanála regarding density, height, tree preservation, INST objective and the future expansion of the school campus.
- Letters of support from the Board of Management from the 2 no. schools are noted, however, they are not in a position to accurately predict future demand. It is considered that both Boards of Management have erred in providing these letters of support, which are misleading. They are also without prior consultation with the Parents Association and do not future proof the site and its primary use as a school campus. There are already substantial waiting lists for new entrants to the existing schools.

- It is key that the potential future expansion of the school's form part of the assessment of this development. It is clear that there is an increasing pressure on capacity of existing schools.
- It is not possible for the schools to extend upwards, due to the foundations of the existing buildings.
- There is a conflict of uses on the school campus with safety concerns for the children attending the schools.
- The development is contrary to SIC8 – Community Strategy for Schools of the development plan. This policy is clear in stating that school provision is an integral part of the evolution of compact sustainable urban development.
- The development is contrary to Section 8.2.3.4 (xi) – Institutional Lands of the development plan.
- The applicant is also in the ownership of a small parcel of land to the north of the primary school site. These lands do not form part of this application and, therefore, are irrelevant to the consideration and assessment of this application.
- The draft development plan indicates that the site would be zoned for Strategic Neighborhood Infrastructure Zone and Open Space.
- This site forms part of a larger (6.2ha) site which has been continuously developed for the past decade. The piecemeal development of the site has led to a situation where 85% of the entire site has already been developed or is subject to proposed development and only 15% of the initial land is remaining.

### ***Tenure / Student Accommodation***

- There is a requirement for family homes within the area. A site of this size should accommodate a mix of housing and unit types.
- Affordable on-campus student accommodation is required and not the units proposed. These units are unaffordable for many students.
- The development is contrary to Section 8.2.3.4 (xii) – Student Accommodation of the development plan.
- There is a strong possibility that the applicant would need to retrofit the student accommodation in the future due to oversupply.

- There are an existing 3,000 student bedspaces within the UCD campus. It is understood that UCD will be adding 954 no. student bed spaces to their stock in September 2021 and are close to appointing a contractor to build another 1,254 no. beds once covid restrictions are lifted. In addition to this permission has been granted for 239 no. student bedspaces at the Vector Motor site (ABP.308353) and there are additional applications within the planning system. There is insufficient evidence for the demand for new student accommodation in this area to warrant 698 no. bedspaces. The proposed development would result in an overprovision of student accommodation.
- Permission has also been granted for student accommodation in Lower Kilmacud Road, Dartry, Carmahall Road, Aparto Montrose and Stillorgan Road. There is a lack of evidence for the requirement for such a substantial number of student accommodation units.
- The development could be refit for tourist accommodation of co-living, which is unacceptable.
- The student accommodation market is driven by foreign students. With the current pandemic there is no requirement for this level of student bedspaces.
- In reality the site is located 2 – 3km from lecture halls within UCD and is not ideally suited for student accommodation.
- Shared living is space is unsuitable during the current pandemic and possible future pandemics.
- Education is moving online and demand for this type of development has dropped.
- The Student Accommodation Management Plan is generic and does not offer any detail.

### ***Design Approach***

- The proposed development has a density of 164.6 units per ha which is over 3 times the maximum density permissible under Policy RES5. The density is excessive and, therefore, results in poor quality and quantity of communal amenity spaces within the site. In comparison to the previous application on site the bedspaces have increased 235% with an increase in floor area of 161%. The density is wholly inappropriate for an established residential area of mostly 2-storey housing.

- The proposed development would constitute overdevelopment of the site by reason of its height, scale, layout and proximity to site boundaries / adjacent properties.
- The proposed design bares no relationship with the surrounding established residential developments. It does not respect local context of the scale and proportions of surrounding buildings, which compromise primarily of low rise housing. The adjacent recently constructed 2-3 storey 'The Grove' residential development would be a more appropriate design solution for this site.
- The impact of the design, scale and massing of the blocks would have a profoundly negative impact on the visual amenities of the school campus. The architectural layout and form has no regard to the character of the site, in particular to the educational nature of the site. The design and form of the development has maximized the negative impact of the proposal on the school site and the surrounding community.
- The development would be overbearing on the adjoining hockey pitch. The proposed development would overlook school grounds which is wholly inappropriate.
- The proposed use, the density, design and layout would be seriously injurious to the educational use on the adjacent sites.
- The internal amenity spaces at lower and ground floor level would not receive adequate daylight / sunlight. Communal areas of open space would receive insufficient daylight / sunlight.
- The courtyard and plaza are circulation areas and should not be considered as communal areas of open space.
- The scale and nature of this development could result in anti-social behavior.

### ***Residential Amenity***

- The proposed development would overshadow and have an overbearing impact on adjacent properties.
- The proposed development would overlook adjacent properties and private amenity spaces.
- Due to the nature of the use it is likely to generate unacceptable noise disturbance.
- The proposed development would result in undue light disturbance.

- The proposed development is transient in nature and would not support the development of a community.
- The proposed walkway would reduce the security of the dwellings which adjoin it.
- Safety concerns regarding the proposed pedestrian link to Friarsland Road and the increased volume of pedestrian movements.
- Concerns regarding disturbance during the construction phase relating to noise, light and dust.
- The proposed development would devalue adjacent properties.
- The proposed communal facilities and amenities have a total floor area of 1,705sqm. This fall short of the 12% of the total gross floor area which is required.

### ***Open Space and Trees***

- Insufficient quantity of public open space which is contrary to Section 8.2.8.2 of the development plan to provide 25% of the site as open space.
- The scheme provides for 7,956sqm of open space which is 43% less than that required to satisfy the 20sqm per person (698 no. students x 20sqm) required in the development plan.
- Concerns regarding the quality of the open space which is located along the periphery of the site. It is narrow and is considered a circulation area. No play area has been provided for local children.
- There has been a huge reduction in open space from the previous application on site.
- In adequate level of tree retention which is contrary to the institutional objective for the site.
- Policy RES5 requires that the provision of open space must be sufficient to maintain the open character of the site. The open character of this site would be lost as the development lacks any openness. The proposed open space comprises a perimeter walkway which is closed in nature.
- It is also clear that the open space is located within the tree belt, which runs along the site boundary. Therefore, much of the open space is unusable and have no amenity value and does not support the 'open character' objective.



- There is a tree objective on the site. The failure to seek to retain trees on the site is a significant failure of the architectural layout of the scheme.
- The site was previously available for public use as the schools and local community use this site for football, GAA and athletics, sports days, outdoor play, nature studies and summer fetes.

### ***Social Infrastructure***

- There are inadequate facilities in the surrounding area to support the proposed population increase, with regard to supermarkets, parks, entertainment, medical facilities etc.
- Serious investment in social infrastructure is required to facilitate a development of this scale.
- Local schools are already at capacity and expansion of these schools should be a key consideration having regard to the significant increase in residential units granted in the surrounding area in recent years.

### ***Physical Infrastructure***

- The scheme is not in accordance with development plan standards which require 60% of roofs to be green roofs.
- The storm water system requires a pump, which is unacceptable.
- A foul pumping system is required and only has a basic 24 hour storage.
- The primary amenity space is situated over the attenuation tank.
- The Irish Water correspondence states that further modelling works are required with regard to wastewater.
- The wastewater network is already at capacity.

### ***Ecology***

- The habitat surveys were carried out after the site had been cleared. The applicant is relying on information from a survey from 2018, which is out of dated.
- None of the trees to be removed were checked for bats.
- No up to date inspection of the building proposed for demolition was completed and the applicant is relying on a survey from 2018.

## ***Transportation***

- There is a lack of public transport and there are inadequate links from this site to public transport. Therefore, the site is not suitable for high density development. There is a single bus service (no. 11) that serves this part of Goatstown that operates between 15 and 30 min intervals and connects Sandyford Business Park and Glasnevin. Under Bus Connects plan this bus would be further reduced in frequency. The development is located between 350 and 450m from this bus stop, which is not identified as a high quality bus corridor and has a lack of dedicated bus lanes.
- Serious investment is required in public transport infrastructure to accommodate the proposed population increase.
- Insufficient car parking provided. There may be no car parking standard for student accommodation, however, the university standard requires 1 no. space per 15 no. students (general) and 30 students (on Transport Corridors) and is considered appropriate. This would require between 23 and 46 no. spaces to accommodate 698 students.
- The schools already generates overspill car parking into 'The Grove'.
- The scale of the development and the major increase in footfall / cycle traffic would adversely affect the safety of the children.
- The site does not have direct access onto Goatstown Road. It should be considered in terms of the wider school site and 'The Grove' development. The proposed development would increase the pressure on this single access point.
- Concerns regarding access for emergency services.
- It is unclear how deliveries and service vehicles would access the proposed development.
- Safety concerns for young children during the construction phase. Having particular regard to the lack of concern for safety during the construction of The Grove.
- There should be more car sharing spaces within the site.

## ***Built Heritage***

- Roebuck Grove House is located directly along the access to the site. This house is of historical and architectural value. It is a significant failure of the

application that the location and relevance of this historic house has been ignored.

- The applicants confirmed at a public consultation that they are the legal owners of this house, therefore, it should be included in the blue line boundary. The house has been allowed to become derelict and is deteriorating quickly.
- The Daylight and Sunlight Assessment fails to adequately address the impact on Roebuck Grove House, in particular it does not acknowledge that the rear extension has been demolished.
- The Visual Impact Assessment does not include any potential impacts on Roebuck House Grove.
- Having regard to the historical and cultural significance of this site the level of material contraventions of the development plan is not acceptable.

### ***Inland Fisheries Ireland***

- The site is located within the catchment of the River Dodder and the Slang Stream which is a catchment of the River Dodder. Any future development should not cause any degradation of fishery habitat.
- All works must be completed in accordance with a Construction Environmental Management Plan. Best practice should be implemented at all times in relation to any activities that may impact on surface water or riparian habitats.
- Ringsend WWTP is currently working at or beyond its design capacity and will not be fully upgraded until 2023. It is essential that local infrastructural capacity is available to cope with increased surface and foul water generated by the proposed development in order to protect the ecological integrity of any receiving aquatic environment.

### ***Other Issues***

- This application does not address the key findings of the Judicial Review of the previous application on site (ABP.304420-19) with regard to density, tree preservation, public open space and provision for school expansion / facilities.
- There is an obligation on the religious orders who own the institutional lands to protect institutional lands for future school expansion.
- Concerns are also raised regarding discrepancies in the documentation submitted.

- The application form is invalid. The applicant has stated that they are not the land owner, however, they do not confirm consent from the landowners.

## 8.0 Planning Authority Submission

- 8.1. The Chief Executive's Report, in accordance with the requirements of Section 8(5)(a) of the Act 2016, was received by An Bord Pleanála on the 8<sup>th</sup> of April 2021. The report includes a summary of the proposed development, third-party submissions, planning history, site location and description and policy context. A summary of the views of the elected members of the Dundrum Area Committee, meeting held on the 10<sup>th</sup> March 2021. The main concerns, of the elected members related to the potential negative impacts on adjoining residential properties in terms of overbearing, overlooking, non-compliance with the INST objective, the loss of trees, under provision of open space, excessive height and density resulting in overdevelopment of the site, the proposed tenure and demand for student accommodation, under provision of car parking and the material contravention of the development plan. Reports from the Drainage Planning, Housing Department, Environment Section (Waste) Transportation Planning and the Executive Parks Superintendent have also been provided.
- 8.2. The key planning considerations of the Chief Executive's report are summarised below.

***Principle of Development – Zoning:*** The subject site is zoned A to protect and / or improve residential amenity. In accordance with Table 8.3.2 residential development which includes student accommodation is acceptable in principle.

The site is also subject to the specific local objective INST which seeks to protect and / or improve Institutional use in open lands. There is also an objective on site to protect and preserve trees and woodlands.

Having regard to the relationship with the primary and secondary schools within the overall Our Lady's Grove campus consideration is required of the impact of the development on the function of the schools and their potential to expand and the implications of the INST designation.

Regard it also had to policy RES 5 which seeks to ensure that the possible need for the future provision of additional facilities related to the retained institutional use are taken into account.

***Impact on Schools:*** It is noted that historically the schools had access to, or the potential to access, the site. At some point in the past decade the lands have been severed from the school by the erection of hoarding, following the sale of the lands. While the lands may not have been in institutional use, they retained their potential as land identified for the return to institutional use as part of an extended school campus. This potential is reflected in zoning objective.

Section 8.2.12.4 requires the consideration of future school expansion. National Guidance 'Code of Practice on the Provision of Schools and the Planning System', and technical references TGD-025 and TDG-027 set out recommendations for site area for schools of differing sizes and sustainable development considerations.

Section 8.2.3.4(xi) states that where no demand for an alternative institutional use is evident or foreseen, the council may permit alternative uses subject to the areas zoning objectives and the open character of the lands being retained. Therefore, the threshold to be met in this instance is to demonstrate that there is no demand evident or foreseen for an institutional use. The letter of support from the school Boards are noted, however, ownership does not preclude existing and proposed schools from requirement to comply with the relevant standards.

In relation to the potential shortage of school spaces. No comprehensive school demand and capacity assessment in the area appears to have been provided. Additionally, there does not appear to be any engagement with the Department of Education to confirm whether the subject site may be required in the future to provide some additional capacity at the existing campus. Therefore, the planning authority is not satisfied that the threshold of Section 8.2.3.4(xi) has been met. It is also considered that recent planning permission (D20A/0192 and D20A/0198) outline how despite potential new schools in the vicinity it is possible that the need may arise to expand existing primary and or post primary school facilities in order to meet potential future demand.

With regard to Policy SIC8 the proposed development should not result in a substandard area being retained to allow for future school(s) expansion.

National and local policy objective such as compact growth and the creation / development of sustainable neighbourhood is dependent upon the availability of adequate social infrastructure, including schools. Any decision which may hinder potential future school growth must be informed by the necessary data.

***Institutional Lands and Open Space:*** Policy RES5 requires that the redevelopment of institutional lands shall retain the open character and / or recreational amenity of the lands. In order to retain such open character a minimum of 25% of the site shall be retained as open space, or a population based provision in accordance with section 8.2.8.2, whichever is the greater must be provided.

It is considered that the overall campus (6.4 ha) must be considered. Therefore, there is a requirement for c. 16,000sqm of open space across the entire former campus area.

Section 8.2.8.2 establishes that all residential developments shall provide between 15sqm and 20sqm of open space per person. Therefore, between 10,470 and 13,960 sqm of open space must be provided considering the population of the proposed development. It is considered that in this instance the population based open space calculation, includes the subject site, The Grove (102 no. units) and Errew House, would be greater than 25% of the site. It is considered that the population based threshold should be met.

There are concerns regarding the applicant's calculation of open space, which totals 29,000sqm as some of the space should not be counted as open space. It is noted that Policy RES5 does not required the open space to be public.

Section 8.2.3.4 (xi) envisages both open space and lands for the future need of the school and it is important not to double count these classes of uses within the overall campus. It is considered that the hockey pitch and tennis court should be discounted from the area of open space as they are functional areas of the school and do not contribute to the open character of the site. Similarly, the area in the north east corner

must be discounted as it comprises of hardstanding playgrounds and is identified for future school expansion.

It is considered the remaining open spaces are less than 10,000sqm. Therefore, the scheme is in contravention of the 25% open space requirement as required under the INST objective.

It is also a requirement to maintain the open character of the site, given the schemes layout and lack of regard to existing features it is considered it fails to accord with RES5 and Section 8.2.3.4(xi) in qualitative terms.

**Justification for Student Accommodation:** Section 8.2.3.4(xii) states that student accommodation will be considered within a hierarchy, in this regard on campus; within 1km and within close proximity to high quality public transport corridors.

The site is located within 850m of UCD's Roebuck Road entrance. The site is also dedicated cycle lands between the site and the UCD campus and good footpaths.

Having regard to the applicant's assessment of existing and permitted student accommodation facilities and the submitted justification for the need for student accommodation it is considered that the subject site is an acceptable location for purpose built student accommodation.

**Demolition:** There is no objection to the demolition of part of the Goatstown afterschool building.

**Density:** Policy RES5 establishes a density range of 35-50 units per ha for institutional lands. There is no standard density for student accommodation. Using a cluster based assessment of 4-persons per units, it is considered that the development would have a density of 82 no. units per ha.

It is noted that the 35-50 unit per ha is not an arbitrary blanket limited instead it is a specific restriction set for institutional lands to ensure that their redevelopment is cognisant of their historic open character and of their surrounding context, which in this instance relates to low and mid-density suburban development. Regard it also had to the site's location over 1km from high quality public transport.

Section 2.1.3.5 also noted that in certain instances higher densities may be permitted where it is demonstrated that they can contribute towards the objective of retaining the open character and / or recreational amenities of the lands. With regard to the subject site, the density appears to be in excess of what can be absorbed while delivering adequate levels of amenity for residents.

It is considered that the proposal is not in accordance with the density parameters applicable to lands with the institutional objective.

**Building Height:** Policy UD6 allows for 3-4 storeys in height in a 'Residual Suburban Area not included within Cumulative Areas of Control'. The plan allows for minor modification up or down in height by up to 2-storeys subject to certain criteria. It is considered that 'upward modifiers' have been met due to the sites size and as it would provide new purpose built accommodation for third level students. This would allow for a maximum of 2-storeys in addition to the 4-storeys permissible.

Notwithstanding this, the scale of the proposed development must be considered in context. The adjacent properties are primarily single and 2-storey houses. The planning authority does not agree with the applicants Landscape and Visual Impact Assessment that the visual impact would evolve overtime to slight and negative. There is no evidence that the pattern of development in the immediate surrounding area would be altered in the medium term and it is not anticipated that matured existing and proposed vegetation would provide sufficient screening to reduce the visual impact.

On balance it is considered that while the proposal would have a moderate negative impact from certain locations, the proposed heights are not anticipated to have a negative visual impact over the larger area. It is also noted that the separation distances are in excess of 30m to adjacent dwellings, the proposal is not deemed to detrimentally impact the amenity of those dwellings or have an overbearing impact.

Furthermore, the redevelopment of the subject site at the proposed heights is deemed to contribute to national objectives of compact growth and sustainable use of land within existing built up areas. Regard is also had to the previous assessment of the site, which considered similar building heights, although in a different layout. The proposed building heights are deemed to be in accordance with the developmetn plan and Building Height Guidelines and are therefore deemed acceptable.



**Site Layout:** The proposed layout concentrates the buildings towards the centre of the site with a buffer zone created around the edges. The applicant has states that the east – west orientation of the blocks reduces the potential for overlooking of existing residential properties. The planning authority welcomes this aspect of the proposal and agrees that the block orientation contributes to reduced potential impact on the privacy of adjoining residents. It is also noted that the orientation maximises sunlight and daylight to the interior of the scheme, thus, increasing the residential amenity of the students.

**Standard of Accommodation:** There are concerns that the 2m wide rooms would offer a limited level of residential amenity.

The 2 no. areas of communal open space fail to achieve the recommend level of sunlight on March 21<sup>st</sup>. It is noted that they would receive good level of light in the summer, however, as the primary use of the scheme is for third level students, with college terms running between September and May / June this is not deemed satisfactory. It is, therefore, considered that the proposal delivers inadequate levels of sunlight for the proposed external communal areas.

The Apartment Guidelines require a minimum of 4sqm of communal amenity space per studio unit. This is considered a reasonable and comparable measurement for communal open spaces. While it is noted that this standard relates to external spaces, it is considered appropriate that internal communal amenity spaces are also included in this term. The proposed development provides 5.5sqm of internal amenity space per person, which is considered acceptable. Notwithstanding this there are serious concerns regarding the quality of the space provided, particularly the external space. The 2 no. courtyards are considered to be primarily circulation areas and do not appear to offer significant opportunities for recreational activities.

**Design and Finishes:** The proposed materials and finishes are deemed appropriate to the site's context.

**Open Space, Landscaping and Tree Removal:** The proposed scheme includes the provision of 10,808sqm of open space, 7,956sqm of public open space and 2,852sqm of communal open space. As noted above, Section 8.2.8.2 establishes that all residential developments shall provide between 15sqm and 20sqm of open space per

person. Therefore, between 10,470 and 13,960 sqm of open space must be provided considering the population of the proposed development. Having regard to the institutional objective of the lands, which seeks to retain their open character, it is considered that the provision of 13,960sqm of open space is appropriate.

The planning authority consider that the failure to achieve the required open areas is indicative that the scheme seeks to accommodate a number of residents for which it is not able to provide an adequate level of amenity.

Public open space is provided in the form of a nature trail around the perimeter of the site and a small park located in the north east corner of the site. The landscape proposal seeks to cater for both active and passive activities which is welcomed by the planning authority. The linear trail is quite narrow, c. 7.7m in parts and would render it closer to the residual open space category rather than high quality open space. The proposed nature trail is deemed to be the result of landscaping the buffer space rather than public open space. The provision of high quality open space is critical in the context of the institutional lands. The planning authority are not satisfied that the current proposal achieves the required standard.

It is considered that the boundary treatments on this site are particularly relevant.

The trees to be planted are considered to have a much lower ecological and diversity value compared with the existing trees. It is also considered that given the size and location of the subject lands, with no major development constraints, there are plenty of design options for the development of the subject site, that would allow for the retention of existing valuable trees, in line with development plan objectives.

The removal of trees and in particular the Irish Oaks, is not justified and it is considered that they should be retained and incorporated within the scheme. It is considered that the proposed development would materially contravene the development plan due to the removal of existing valuable trees on site. The Board is referred to the report of the planning authority's Parks section.

***Access, Car and Bicycle Parking:*** The Transportation section of the planning authority have no objection to the access arrangements. They request that connectivity and permeability be enhanced with the provision of a pedestrian and

cycling link with Friarsland Road to the west. It is noted that the applicant has provided a path to the sites north western boundary and that the adjacent lands are outside of the applicant's control. Therefore, while it is desirable it is not considered pertinent to pursue this matter.

It is noted that the Transportation section raised no objection regarding the level of car parking. Having regard to the limited opportunity for overspill car parking, the distance of less than 1km from UCD and the good cycling and pedestrian infrastructure in the area, the proposed car parking provision is deemed acceptable in this instance.

The Transportation section are seeking an increase in visitor cycle parking spaces at the entrance to the site.

The Board are referred to the report of the planning authority's Transportation section.

**Construction and Operational Waste Management:** While the Construction and Demolition Waste Management Plan and the Operational Waste Management Plan are generally acceptable the planning authority's Waste Section seeks additional issues to be addressed in relation to waste collection, construction waste and complaints handling. The Board are referred to the report of the planning authority's Waste Section.

**Irish Water:** The report of Irish Water is noted. It is considered that the Board should be satisfied that the applicant has provided all the relevant consents to carry out all necessary connection works.

**Surface Water Drainage and Flooding:** As per Policy E18 and Policy E19 all development proposals should incorporate SuDS and significant developments should be accompanied by a Storm Water Audit. Appendix 16 requires that roof areas greater than 300sqm should provide for a green roof proposal and that a minimum of 60% of the roof area should comprise a green roof.

The proposed development comprises green roofs, covering 52% of the roof areas, permeable paving and soft landscaping. An attenuation tank system is proposed within the park area to the north east of the site. Discharge from the tank would flow by gravity

to the public network at the roundabout to the east of the site. Overall surface water management is acceptable, subject to conditions.

The conclusions of the Site Specific Flood Risk Assessment are accepted, and the proposed development is considered to be in accordance with Appendix 13. The Board are referred to the report of the planning authority's Drainage Section.

**Part V / Social Housing:** The scheme does not include any Part V social units. As per the Housing Section report off campus student accommodation is not considered to be exempt from the requirements of Part V. It is noted that the provision of on-site social housing would not be an appropriate compliance option in this instance, there are alternative Part V compliance options available. In this regard the Council will seek off-site social housing as the preferred compliance option.

It is considered that the non-provision of Part V units is a material contravention and contrary to Section 96 of the Planning and Development Act 2000 (as amended). The Board are referred to the report of the planning authority's Housing Section.

**Residential Amenity:** The block layout is generally acceptable and the separation distances to the southern and western boundaries exceed 11m. The distance to the northern boundary is 7.6m, which has the potential to negatively impact on the development potential of lands to the north. However, it is considered that blinkered windows to limit the direction of overlooking addresses this concern.

The daylight and sunlight assessment indicated that all windows and rear gardens of adjacent properties would experience imperceptible impacts. This is welcomed.

The provisions for the management and servicing of the development as outlined in the applicants Management Plan are noted.

The contents of the Noise Impact Assessment are noted, in particular the measures to avoid impacts on residential amenity. Mitigation measures should be adhered to at all times to minimise any impact on adjacent residential amenity.

**Other Matters:** Subject to a grant of permission the following should be submitted: -

- Written documentary evidence confirming for a 'Qualifying Leave' to provide that the accommodation is let to students within the academic year.

- Planning permission for a change of use from student accommodation to another type of accommodation.

It is noted that the site would not be taken in charge.

***Ecology, Appropriate Assessment and Environmental Impact Assessment Screening:*** The submitted documentation is noted.

It is noted that An Bord Pleanála are the competent authority for the purposes of AA and EIA screening.

***Development Contributions:*** If permission is granted, standard development contributions would apply.

### 8.3. ***Conclusion***

The planning authority considers that the proposed development is inconsistent with the policies of the development plan. It is recommended that permission be refused for the following reasons:

1. The proposed development, by virtue of its bringing about a scenario whereby lands that were previously available to the two schools on the overall Our Lady's Grove campus would be made permanently unavailable to those schools, would result in a situation whereby the existing schools on site would be operating on sites that would be smaller than those recommended under Technical Guidance Documents TGD-025 and TGD-027 as produced by the Department of Education and Skills. As such, the proposed development would be contrary to the 'Code of Practice on the Provision of Schools and the Planning System', prepared jointly by the Department of Environment, Heritage, and Local Government and the Department of Education and Science in 2008, and by extension would be contrary to Section 8.2.12.4 of the Dun Laoghaire – Rathdown County Development Plan 2016 – 2022, which references this Code of Practice. Furthermore, and by extension, the proposed development would result in a scenario whereby the campus would be unavailable to address the identified demand for school places in the area by way of expansion. As such, the proposed development would be contrary to Policy SIC8, and Section 8.2.12.4 of the County Development Plan, and indeed

the zoning objective 'to protect and – or improve residential amenity' of which the provision of community facilities, including schools, forms part. As such the proposed development would materially contravene the County Development Plan and would be contrary to the proper planning and sustainable development of the area.

2. The proposed development, by virtue of reducing the open space across the former Our Lady's Grove campus to a level below 25%, by virtue of the lack of maintenance of the site's open character due to its layout and massing, would materially contravene Policy RES5 and the INST Objective of the subject lands, and would be contrary to Section 8.2.3.4 (xi) of the Dun Laoghaire-Rathdown County Development Plan 2016-2022.
3. The proposed development fails to retain existing high-quality trees on site. Therefore, it is contrary to the specific objective to protect and retain existing trees and woodlands of the Development Plan 2016 – 2022. By failing to protect high quality trees, the proposal is also deemed contrary to Policy RES5 and the INST Objective of the Development Plan and contrary to the proper planning and sustainable development of the area.
4. The proposed public open space is deficient in terms of its quality and usability. Therefore, the proposal is not in accordance with Section 8.2.8.2 of the Development Plan 2016 – 2022. In addition, the proposed communal open spaces by virtue of their design would function primarily as circulation areas and would receive levels of sunlight below relevant recommendations, offering an inadequate level of amenity that would result in a substandard level of communal amenities provision and would be contrary to the proper planning and sustainable development of the area.
5. The proposed density is in excess of the range established for lands in institutional use and therefore would materially contravene the INST Objective. Furthermore, and when viewed in tandem with the reasons above, the

proposed density is a significant deviation from the existing pattern of development and would lead to overdevelopment.

6. At only 2m wide the proposed ensuite rooms do not provide an adequate level of amenity for the future residents.

If permission is being contemplated the planning authority have provided 31 no. suggested conditions and 4 no. notes. Condition no. 2 is of note: -

2. *The northern most block shall be removed in its entirety. Revised plans shall be submitted for the written agreement of the Planning Authority, prior to commencement of development, showing the area being used for public open space.*

*Reason: to provide sufficient high-quality open space and to protect the open character of these institutional lands.*

## 9.0 Prescribed Bodies

- 9.1. The list of prescribed bodies, which the applicant was required to notify prior to making the SHD application was issued with the Section 6(7) Opinion and included the following: -

- The Department of Education and Skills
- Transport Infrastructure Ireland
- National Transport Authority
- Irish Water

The applicant notified the relevant prescribed bodies listed in the Board's Section 6(7) opinion. The letters were sent on the 12<sup>th</sup> February 2021. A summary of the comments received are summarised below:

### ***Irish Water***

It is noted that the applicant has engaged with IW in respect of the design proposal and has been issued with a Statement of Design Acceptance for the development.

In respect of water replacement works are required in this regard: -

- c. 600m of 200mm ID new main to be laid to replace existing 6” CI.
- c. 800m of 200mm ID new main to be laid to replace existing 6” uPVC and 6” CI.

Irish Water has no plans to carry out these upgrades. The developer would be required to fund these upgrades.

In respect of wastewater a new connection to the existing network is feasible without any upgrade. It is noted that the connection is via third party infrastructure which is not taken in charge by Irish Water. The applicant is required to demonstrate the following:

-

- Evidence of permission from third party to connect.
- Capacity and condition report of the third party infrastructure.
- Evidence third party infrastructure is to IW standards and Codes of practice.
- Evidence that the third party infrastructure is of sufficient capacity to take the connection and the additional demand.
- Evidence that the third party infrastructure is of sufficient integrity to take the connection and the additional discharge.

No comments were received from the Department of Education and Skills, Transport Infrastructure Ireland and the National Transport Authority

## 10.0 **Assessment**

The Board has received a planning application for a housing scheme under section 4(1) of the Planning and Development (Housing) and Residential Tenancies Act 2016. My assessment focuses on the National Planning Framework, the Regional Economic and Spatial Strategy and all relevant Section 28 guidelines and policy context of the statutory development plan and local plan and has full regard to the Chief Executive’s report, 3<sup>rd</sup> party observations and submission by prescribed bodies. The assessment considers and addresses the following issues: -

- Principle of Development
- School Expansion
- Open Character / Open Space



- Trees
- Housing Tenure / Student Accommodation
- Quantum of Development
- Height
- Residential Amenity / School Amenity
- Transportation
- Water Services
- Ecology
- Built Heritage
- Part V
- Material Contravention

#### 10.1. ***Principle of Development***

- 10.1.1. The proposed development comprises the demolition of part of the existing Goatstown Afterschool building (558sqm), the provision of a temporary prefabricated structure (161sqm) and the construction of a student accommodation development containing 698 no. bedspaces with associated facilities in 8 no. blocks, which range in height from 3 – 7 storeys. The accommodation comprises 679 no. bedspaces in 99 no. clusters with communal Living / Kitchen / Dining rooms and 19 no. studio units. The development includes the provision of internal communal residential amenity space (1,705sqm) at lower ground floor level and ground floor level and associated staff and administrative facilities (195sqm). The development also includes the provision of 2,852sqm communal open space and 7,956sqm of public open space.
- 10.1.2. The site is zoned 'Objective A' with the associated land use objective 'to protect and/or improve residential amenity'. Residential uses, the definition of which includes student accommodation, is listed as a 'permissible use' on these lands and is considered an appropriate use for the site. Childcare Services are 'open for consideration'. Having regard to the existing childcare facility on site the proposed demolition of part of the Goatstown Afterschool building (558sqm) and the provision of a temporary prefabricated structure (161sqm) to the south of the remaining building are considered acceptable in principle.

- 10.1.3. The site is also subject to the specific local objective 'INST' which seeks to protect and / or improve Institutional use in open lands. Specific objectives for Institutional lands are provided in Section 2.1.3.5: Policy RES5 Institutional Lands and Section 8.2.3.4(xi) Institutional Lands of the development plan. The plan recognises the changing nature of institutional lands and states that where no demand for an alternative institutional use is evident or foreseen, the Council may permit alternative uses subject to the zoning objectives of the area. This is subject to a number of caveats. In this regard Section 2.1.3.5 requires that proposed developments on institutional lands retain the open character of the lands, with a minimum provision of 25% of the total site area provided as open space (or a population based provision in accordance with Section 8.2.8.2 whichever is the greater). Average net densities should be in the region of 35 - 50 units p/ha. In addition, the possible need for the future expansion of the original institutional use may be required to be taken into account, this particularly applies to schools. Concerns have been raised by the planning authority and third parties that the proposed development is not in accordance with the site's institutional objective.
- 10.1.4. Section 8.2.3.4(xi) Institutional Lands of the development plan further states that in order to promote a high standard of development a comprehensive masterplan should accompany a planning application for institutional sites. Section 4 of the Design and Access Statement includes a Masterplan for the overall campus which is in accordance with Section 8.2.3.4(xi). The overall institutional landholding (c. 6ha) current comprises the 2-storey Our Lady's Grove Primary School and 3-storey Jesus and Mary Secondary School on the northern side of the internal access road and the recently constructed 'The Grove' on the southern side of the access road, which comprises 3-storey houses and 3-5 storey duplex and apartment units. The campus also includes Errew House, which is the convent building located in the south east portion of the site with direct access onto Goatstown Road. The masterplan considers that the campus is currently overwhelmed by traffic infrastructure and extensive car parking. It is considered that at present there is no coherent or spatial structure to the site. The proposed scheme aims to rebalance the existing urban structure by placing buildings of varying heights, that formally address the open car parking area. The document addresses issues of design, layout, height, mass and visual impact. The applicants Planning Report also makes reference to a masterplan that was submitted

with a previous application (PL06D.302898) which was approved permission in 2018 for the re-orientation of the hockey pitch associated with the secondary school. An extract of this plan provided in Table 4.5. However, this drawing / or similar drawing to scale has not been submitted with the current application.

10.1.5. The subject site is located to the rear of the overall campus and is the last remaining substantial portion for land for development within the landholding. I would agree with the applicants Masterplan that the overall campus is imbalanced and overwhelmed by car parking. In my view, the development of the subject site would be a positive contribution within the campus as it would improve legibility within the landholding and support the consolidation of the urban environment. It is also my opinion that the proposed development is in accordance with the Institutional land use objective. In the interest of clarity, the concerns raised regarding school expansion, open character / open space and density are outlined below in Section 10.2 - School Expansion, Section 10.3 – Open Character / Open Space and Section 10.6 – Quantum of Development.

10.1.6. There is also an objective on the site to protect and preserve trees and woodlands. Concerns were raised by the planning authority and third parties that that the proposed development, would result in an unacceptable loss of trees and, therefore, it is not in accordance with this objective. It is my view that the proposed development is in accordance with this objective and these concerns are addressed in detail below in Section 10.4 – Trees.

## 10.2. ***School Expansion***

10.2.1. Section 8.2.3.4(xi) Institutional Lands states that in addition to the provision of adequate open space, where existing school uses will be retained, any proposed residential development shall have regard to the future needs of the school and allow sufficient space to be retained adjacent to the school for possible future school expansion/ redevelopment.

10.2.2. The applicants Planning Report states that it is evident from the sale of the subject site by the Religious Congregation associated with Our Lady's Grove School, the lands were no longer required for 'institutional' use. The Board of Management of Our Lady's

Grove Primary School and Our Lady's Grove Secondary School have provided letters confirming that the subject lands are not required for expansion of educational facilities and any expansion required would take place on lands within its own demise. The applicant also states that if expansion becomes necessary in the future, the school sites could consider vertical expansion rather than lateral into the designated expansion zones.

10.2.3. Table 4.5 of the applicants Planning Report provided an extract of a masterplan that was submitted with the previous application (PL06D.302898) for the reorientation of the hockey pitch. This masterplan indicates an area of future expansion for the secondary school along the northern campus boundary, on lands located between the hockey pitch and the tennis courts. Lands located to the north of the primary school, which are shown within the applications blue line boundary, are also noted for future school expansion. Figure 7.7 of the of the applicants Planning Report indicates that these sites would be utilised for any required future school expansion. However, neither of these drawings have been submitted to scale and no details regarding the size of these land parcels have been submitted with the current application. Third parties have also noted that there is an attenuation tank under the land associated with the Secondary School and the lands to the north of the primary school are not in the ownership of the school, therefore, the suitability of these sites for future school expansion is unclear.

10.2.4. The planning authority note that while the site may not be in institutional use, to date they retained their potential as land identified for the return to institutional use as part of an extended school campus and this is reflected in zoning objective. The planning authority also note the letters of support from the school Boards. However, they consider that ownership does not preclude existing and proposed schools from requirement to comply with the relevant standards. The planning authority's first reason for refusal considered that the proposed development would result in a situation whereby the existing schools on site would be operating on sites that would be smaller than those recommended under Technical Guidance Documents TGD-025 and TGD-027 as produced by the Department of Education and Skills. As such, the proposed development would be contrary to the 'Code of Practice on the Provision of Schools and the Planning System', and by extension would be contrary to Section

8.2.12.4 of the development plan, which references this Code of Practice. Furthermore, the proposed development would be contrary to Policy SIC8, and Section 8.2.12.4 of the development plan.

- 10.2.5. Technical Guidance Documents TGD-025 - Identification and Suitability Assessment of Sites for Primary Schools (2019) and TGD-027 - Identification and Suitability Assessment of Sites for Post Primary Schools (2019) are guidance documents regarding site suitability for new school sites and do not relate to existing school sites. Notwithstanding this Note 2 of both documents' states that due to the scarcity of land in urban areas it is not always possible to achieve the ideal site size for school buildings. Constraints in site sizes in urban areas mean that the full suite of external accommodation may not be provided in all cases. In such circumstance's priority should be given to the provision of accommodation and services specific to the pedagogical requirements of the school. Therefore, it is my view that having regard to the urban nature of the site and the provisions of Technical Guidance Documents TGD-025 and TGD-027 that the proposed development would not result in the existing schools operating on sites smaller than recommended.
- 10.2.6. Policy SIC8 states '*to ensure the reservation of primary and post-primary school sites in accordance with the requirements of the relevant education authorities and to support the provision of school facilities and the development / redevelopment of existing schools throughout the County*'. In addition, the '*Code of Practice on the Provision of Schools and the Planning System*' notes that the effective integration of the schools and development planning systems has three core objectives. In this regard (1) Schools provision should be an integral part of the evolution of compact sustainable urban development and the development of sustainable communities; (2) The provision of any new schools (both primary and post-primary) should be driven by and emerge from an integrated approach between the planning functions of planning authorities and the Department of Education and Science; and (3) Local authorities, as planning authorities, will support and assist the Department in ensuring the timely provision of school sites.
- 10.2.7. It is acknowledged that the subject site previously formed part of the school campus and third party submissions state that the site was available for use by the schools and the general public. However, it is noted that the subject site has not been identified

by the planning authority, the Department of Education and Skills or the Board of Management of either of the existing schools as lands for a future school site or for future school expansion. As such it is my view that the proposed development of the subject site would not be contrary to the Code of Practice on the Provision of Schools and the Planning System or Section 8.2.12.4 of the Dun Laoghaire – Rathdown County Development Plan 2016 – 2022, which references this Code of Practice.

- 10.2.8. The planning authority also note that no comprehensive school demand and capacity assessment in the area appears to have been provided. It is acknowledged that no details have been provided regarding the size or capacity of the existing schools or the amenities provided for the schools within the overall campus. However, Section 4.2.5 of the applicants Planning Report notes a recent planning application (D20A/0268) for the construction of a 4 no. pre-fabricated temporary post primary school c. 550m south of the subject site. Permission was granted for the temporary school in February 2021. The applicant also references a media article which states that it is envisioned that this temporary school site would accommodate a permanent Educate Together Primary School and an 800 pupil Secondary School. Having regard to the proximity of this site to the subject site, it is my view that, it is unlikely that the subject site would be required as a new school site.
- 10.2.9. The planning authority raised concerns that the applicant has not engaged with the Department of Education to confirm whether the subject site may be required in the future to provide some additional capacity at the existing campus. It is noted that the applicant was required to notify The Department of Education and Skills regarding the application and no comments were received.
- 10.2.10. The planning authority also made reference to recent planning permission D20A/0192 and D20A/0198 which both relate to the provision of changing rooms (162sqm) for the secondary school and a temporary childcare facility. Having regard to the minor nature and scale of these applications I do not agree with the planning authority's assessment that these planning applications indicate the requirement for future school expansion in order to meet potential future demand.

- 10.2.11. Third parties also raised concerns that the area provided for the future expansion of both schools is small and inadequate for all but a very minor extension and in the case of the primary school it would be impossible due to the location of the attenuation tank.
- 10.2.12. Figure 6.6 of the applicants Planning Report indicates that the secondary school lands includes a 5,783sqm area of open space. While it is noted that this area includes the tennis courts it excludes the hockey pitch, which is an additional 6,851sqm of open space. The primary school lands include an area of 3,720sqm of open space. There is also a significant area of land in the centre of the campus currently used as a surface car park. Having regard to the urban nature of this site, it is my view that if future school expansion was required, and the areas outlined by the applicant for future school expansion are not considered appropriate, consideration should be given to redeveloping the existing surface car park and / or the existing areas of open space associated with the schools.
- 10.2.13. In conclusion, the subject site has not been identified by the planning authority, the Department of Education and Skills or the Board of Management of either of the existing schools as lands for a future school site or for future school expansion and that permission (D20A/0268) has recently been granted for a school site (4 no. classrooms) within 550m of the subject site, therefore, having regard to the information submitted with the application it is my view that the subject site is unlikely to be required for future school expansion in the short to medium term. With regard to any long term future expansion that may be required, it is my view that having regard to the urban location of this site consideration should be given to the consolidation of the urban environment and the development of the surface car park or areas of open space currently associated with the schools. It is also noted that the subject site is no longer within the ownership of the Religious Congregation and is currently closed off by fencing / hoarding and is not providing any amenity for the schools or the overall campus.

### 10.3. ***Open Character / Open Space***

- 10.3.1. The planning authority's second reason for refusal considered that by virtue of reducing the open space across the former Our Lady's Grove campus to a level below

25% and by the lack of maintenance of the site's open character the proposed development would materially contravene Policy RES5 and the INST Objective of the subject lands, and would be contrary to Section 8.2.3.4 (xi) of the Development Plan.

10.3.2. Policy RES5 states *'Where distinct parcels of land are in institutional use (such as education, residential or other such uses) and are proposed for redevelopment, it is Council policy to retain the open character and/or recreational amenity of these lands wherever possible, subject to the context of the quantity of provision of existing open space in the general environs.'*

10.3.3. The subject site which has a stated area of c. 2.12 ha. It is generally located to the rear (west) of the institutional landholding which has a stated area of 6ha. In general, the northern portion of the landholding accommodates the school campuses and the southern portion the recently completed 'The Grove' residential development and Errew House (convent) which fronts directly onto Goatstown Road. The central area currently comprises the access road, footpaths and a large area of unrestricted car parking. Third parties have stated that the subject site was previously available as open space to the schools and general public, however, it is noted that the lands are no longer in the ownership of the Religious Congregation and are currently located behind hoarding / fencing and appear to have been used as a compound for the 'The Grove' development.

10.3.4. Figure 6.6 of the applicants Planning Report identifies the existing and proposed areas of open space within the site. The open spaces on northern portion of the landholding are associated with the school uses and are not publicly accessible or visible from within the campus. In this regard 3,720sqm associated with the primary school, located along the northern and eastern campus boundary and 5,783sqm of open space (including tennis courts) and a 6,851sqm hockey pitch located along the northern site boundary and associated with the secondary school.

10.3.5. 'The Grove' includes 3 no. pockets of open space with a total area of 1,150sqm. It is noted that 1 no. area of open space with a stated area of 366sqm has not been completed to date and is located behind hoarding associated with the redevelopment of Roebuck Grove House. In my view, these areas of open space and associated landscaping significantly enhance the campus, which is predominantly hard



landscaped. There is an additional 543sqm of open space indicated to the rear of Errew House, which is not visible from within the campus.

- 10.3.6. Policy RES5 notes that the retention of the open character and / or recreational amenity is subject to the context of the quantity of provision of existing open space in the general environs. Having regard to the current layout and existing developments within the overall landholding, it is my opinion that the institutional lands currently do not have an open character and due to the limited size (784sqm) of the 2 no. available green spaces within 'The Grove' do not provide any recreational amenity for the wider area. In my view the proposed public open space (7,956sqm) would enhance the open space areas within 'The Grove' development and provide an amenity to existing and future residents that does not exist at present. Therefore, the proposed development would not be contrary to Policy RES5 as it would support the provision of an open character and recreational amenity within the site.
- 10.3.7. Notwithstanding this, it is noted Section 8.2.3.4(xi) Institutional Lands states that a minimum open space provision of 25% of the total site area (or a population based provision in accordance with Section 8.2.8.2 whichever is the greater) will be required on Institutional Lands.
- 10.3.8. The public open space (7,956sqm) equates to 37% of the site area and is provided in 3 no. interconnected areas. In this regard a new entrance plaza, a landscaped walkway around the perimeter of the site and a pocket park in the north west portion of the site. The entrance plaza is located at the eastern site boundary and provides access to the proposed buildings and linear walkway. The plaza includes hard landscaping, tree planting and seating areas. The linear park has a length of 443m. The southern element of the route varies in width from c. 17m to 22m and is adjacent to the rear gardens of dwellings on Larchfield Road and Friarsland Avenue. The western element of the route varies in width from c. 17m to c. 30m and is adjacent to the rear gardens of dwellings on Friarsland Road. The northern portion of the route is c. 7.7m in width and is located adjacent to the hockey pitch. The south eastern portion of the route varies from c. 12 m to 14m and is located adjacent to 'The Grove'. The north eastern portion of the linear park is located adjacent to the afterschool building. This section of the route includes a pocket park. It varies in width from c. 28m to c. 36m. The linear walkway incorporates the existing mature trees, additional soft

landscaping lighting and exercise stations. The pocket park is accessible from the entrance plaza and incorporates a basketball hoop, outdoor table tennis, seating and soft landscaping.

10.3.9. It is noted that Section 8.2.3.3 (xi) does not differentiate between public, communal or private open space. In addition to the public open space it is proposed to provide 2,852sqm of communal open space and 280sqm of open space associated with the afterschool. The communal open space (2,852sqm) is provided in 2 no. courtyard areas. In this regard a southern courtyard (1,950sqm) located at ground floor level between the southern block and the Mews Blocks and a northern courtyard (902sqm) located at lower ground floor level between the northern block and the middle block. The communal open spaces provide for passive and active recreation and include soft landscaping, lighting and bicycle parking. The northern courtyard includes a putting green. The southern courtyard also provides a fitness hub and activity hub. The applicant's Landscape Development Report considers that this northern courtyard space would act as an extension to the internal amenity space provided at ground floor level between the middle block and the southern block. The total area of open space is 11,088sqm or 52% of the site area.

10.3.10. I agree with the planning authority that the provision of open space on the overall Institutional Lands must also be considered. The applicant states that the overall lands have an area of 60,264sqm. If the scheme were permitted there would be a total of 29,135sqm of open space provided across the institutional landholding, which equates to 48% of the total site area. It is, therefore, considered that both the subject site and the overall complex would retain a minimum of 25% of open space in accordance with Section 8.2.3.3 (xi).

10.3.11. With regard to a population based provision, Section 8.2.8.2(i) Residential / Housing Developments states that there is a requirement of 15sqm – 20sqm of open space per person for all residential development of 5 or more units. It is noted that Section 8.2.8.2(i) does not differentiate between public, communal or private open space. The proposed scheme contains 698 no. bedspaces. Therefore, between 10,470 and 13,960 sqm of open space would be required for the subject site. A total of 11,088sqm of open space is proposed which equates to 15.8sqm per person. Section 8.2.8.2(i) further states that a lower quantity of open space (below 20sqm per person) will only

be considered acceptable in instances where exceptionally high quality open space is provided on site and such schemes may be subject to financial contributions. As noted above it is my view that the scheme results in high-quality usable open space that would benefit the wider community and support the provision of an open space character and a recreational amenity on these institutional lands. Therefore, it is my view that the provision of 15.8sqm of open space per person is in accordance with the provisions of Section 8.2.8.2(i).

- 10.3.12. With regard to the overall site it is noted that 'The Grove' provides an additional 102 no. units (Reg. Ref D11A/0595). The breakdown of bedspaces for these units have not been provided. However, based on an average household size of 2.7 persons ([www.CSO.ie](http://www.CSO.ie)) it is assumed that these units contain c. 275 bedspaces. The planning authority also noted Errew House, from the documentation submitted this house appears to be the convent associated within the institutional lands which fronts directly onto Goatstown Road. No information regarding the number of bedspaces in this facility have been provided. Therefore, it is my view that the overall landholding would accommodate 973 no. bedspaces, if the proposed development were permitted. As outlined above the overall campus including the proposed development would include c. 29,135sqm of open space, which equates to c. 30sqm of open space per bedspace.
- 10.3.13. The planning authority note that open space and lands for the future need of the school should not be double counted. In this regard the planning authority consider that the hockey pitch and tennis court should be discounted from the area of open space as they are functional areas of the school and do not contribute to the open character of the site. Similarly, the area in the north east corner must be discounted as it comprises of hardstanding playgrounds and is identified for future school expansion. While I agree with the planning authority's assessment that the lands to north of the site do not contribute to the open character of the site, I do not agree that they should be excluded from the open space calculation as they are currently in use as open space. Notwithstanding this, if the hockey pitch (6,851sqm) and the tennis courts / area of future expansion (4,356sqm) were excluded from the calculation it would result in the provision of 18.4sqm of open space per bedspace within the overall site. It is, therefore, considered that the population based threshold has been achieved.

- 10.3.14. The planning authority also raised concerns regard the quality of the open space. In particular it is considered that the linear trail is quite narrow and would render it closer to the residual open space category rather than high quality open space and the open space acts as a buffer space rather than public open space. While the relatively narrow width (7.7m) of the northern portion of the route is noted, having regard to the overall length and width of the route and the tree retention and the provision of high quality landscaping and outdoor equipment proposed along the route, it is my opinion that it would act as a linear park and not incidental space. The provision of the pocket park in the north east portion of the site is also welcomed as in my view it would enhance the open character of the site and provide an additional amenity for the wider vicinity of the site.
- 10.3.15. The planning authority also raised concerns regarding access to daylight and sunlight for the areas of communal open space. The applicants Daylight and Sunlight Assessment Report assessed the communal areas of open space with regard to the BRE guidance document: - site layout planning for daylight and sunlight (2011). The BRE Guidelines recommend that at least half the amenity space should receive at least 2 hours of sunlight on March 21<sup>st</sup>. The report found that the northern courtyard is 57.6% compliant and the southern courtyard is 63.6% compliant with the BRE guidelines. Having regard to the orientation of the blocks, the sites location within an existing urban area and the proximity to high quality public open space, which reaches and exceeds the BRE Guidelines I have no objection in this instance to the quality or quantity of the ground floor level communal open space. It is also noted that the BRE guidelines are advisory and not statutory, therefore, flexibility in its standards are acceptable.
- 10.3.16. It is noted that the planning authority are not satisfied that the current proposal achieves the required provision of high quality open space in the context of the institutional lands. However, having regard to the quantity and quality of the open space proposed within the scheme and the overall institutional landholding, the urban nature of the site and the lack of existing publicly available open space within the overall institutional landholding and within the subject site, it is my view that the proposed development is in accordance with Section 8.2.8.2 of the development plan and Policy RES5. It should also be noted that the site is located within the existing

urban area and the development of the site would significantly contribute to the consolidation of the urban environment.

#### 10.4. **Trees**

- 10.4.1. The planning authority's recommended third reason for refusal considers that the proposed development fails to retain existing high-quality trees on site and is, therefore, contrary to the specific objective to protect and retain existing trees and woodlands. By failing to protect high quality trees, the proposal is also deemed contrary to Policy RES5 and the INST Objective of the Development Plan. Third parties also raised concerns regarding the loss of trees to facilitate the development.
- 10.4.2. The report of the planning authority's Parks Section raised concerns regarding the removal of trees, in particular the removal of Oak trees running in an east – west direction. The report states that Irish Oak trees are a native tree with a high amenity and visual value in the landscape. It is a tree with the highest biodiversity index with the potential to support a significant range of insects and lichens and can live for between 500 and 1,000 years. It is noted that the Parks Section recommended that the permission be refused on the basis of the loss of trees.
- 10.4.3. The applicants Arboricultural Report states that as part of the design process it was considered that the trees adjoining the site boundaries provided the greatest amenity value and screening to neighbours. The report further notes that many of the trees in the centre of the site are small and of little visual significance and could readily be replaced with new trees, elsewhere on the site. The proposed development would provide a substantial gain in both tree numbers and the tree sustainability in comparison to a 'do nothing' scenario.
- 10.4.4. Concerns have been raised by third parties that the proposed development would be a material contravention of the specific objective on site '*to protect and preserve trees and woodlands*'. Section 8.2.8.6 states new developments shall be designed to incorporate as far as practicable the amenities offered by existing trees and hedgerows and new developments shall have regard to objectives to protect and preserve trees and woodlands. The scheme has been designed with regard to the retention of a significant number of trees and tree lines within the subject site and I would agree with the applicant that the retention of trees along the southern and

western site boundaries provides the greatest amenity value to the proposed area of open space and to the amenities of adjacent properties, in terms of screening. It is my view that the wording of Section 8.2.8.6 is sufficiently flexible to allow for the removal of a number of trees and that the proposed development would not be a material contravention of the plan. This issue is addressed further in Section 10.14 below.

- 10.4.5. The concerns of the planning authority are also noted regarding the loss of trees. It is noted that Section 8.2.8.6 further states that where it proves necessary to remove trees to facilitate development, the council will require commensurate planting or replacement trees and other plan material. The proposed development would result in the loss of 34 no. trees. It is proposed to compensate for this loss by providing an additional 56 no. replacement trees (22 no. net gain). It is my view that the proposed tree loss would be adequately compensated by the planting of an additional 22 no. trees and the significant landscaping proposed within the areas of open space. The subject site is located in an urban area on zoned and serviced lands and, therefore, I have no objection in principle to the loss of 34 no. trees. With regard to concerns raised by the planning authority that the trees to be planted have a much lower ecological and diversity value compared with the existing trees. It is my view that this concern could be addressed by way of condition that the final details of the landscape and planting plan be agreed with the planning authority.
- 10.4.6. Section 8.2.3.4 (xi) also notes that the proposed development should have regard to boundary walls and other features. There are no features located within the site. The sites existing boundaries generally comprise blockwork walls, associated with the rear gardens of adjacent properties and trees and vegetation. It is my opinion, that these boundaries are standard in urban areas and do not add to the character of the institutional lands.
- 10.4.7. The planning authority state that the proposed site boundaries are of particular relevance having regard to the nature of the site. It is proposed to retain the existing boundary treatments where possible. Along the northern boundary with the hockey pitch it is proposed to provide a 1.8m high paladin fence with native hedge. I have no objection to the proposed boundary treatments and consider them appropriate in an urban setting. It is recommended that a condition be attached to any grant of

permission that the final details of the boundary treatments be agreed with the planning authority.

- 10.4.8. Concerns were raised by third parties that the retention of the trees reduces the usability of the open space. While it is acknowledged that the retention of the trees would reduce the width of the linear park, it is my view that the retention of trees is welcomed, in terms of both biodiversity and screening.

10.5. ***Housing Tenure / Student Accommodation***

- 10.5.1. Third parties raised concerns regarding the proposed student accommodation use. It is stated that there is an overprovision of student accommodation in the vicinity of the UCD Belfield campus and that there is a requirement for family homes within the area.

- 10.5.2. Policy 'RES12: Provision of Student Accommodation' seeks to facilitate student accommodation on student campuses in locations which have convenient access to Third Level colleges, particularly by foot, bicycle and high quality and convenient public transport, in a manner compatible with surrounding residential amenities.

- 10.5.3. Section 8.2.3.4 (xii) of the development plan sets out a hierarchy of priority for locations for student accommodation, on campus provision is at the top of the hierarchy, with locations within 1km of a third level institute at the second tier and locations in close proximity to high quality public transport corridors, cycle and pedestrian routes and green routes at the third tier. Matters to be considered in the assessment of applications for student accommodation include the amount of student accommodation already extant in the locality, in order to avoid the over-concentration of student accommodation schemes in any one area. It is noted that the site is within 850m of UCD's Roebuck Road entrance and, therefore, is located within the second tier of the hierarchy.

- 10.5.4. Section 3.2 of the applicants Planning Report provides an assessment of demand for student accommodation. The report states that there are 2,912 no. bedspaces on the Belfield Campus and 256 no. bedspaces on the Blackrock campus, c. 3.4km east of the site. Therefore, there are a total of 3,168 no. on-campus bedspaces currently available. Permission (PL06D.TA0001) was granted in 2018 for a 2,178 no. bedspace, student accommodation scheme with associated facilities on the Belfield campus, c.

1.7km north east of the subject site. Phase 1 comprises 924 no. bedspaces and is currently under construction.

- 10.5.5. Within 1km of the UCD Belfield campus, permission was granted (308353-20) in 2021 for 239 no. bed spaces at the Vector Motor site, c. 260m south east of the subject site. Outside of 1km of UCD, permission (ABP-3000520-17) was granted in 2018 for 576 no. bedspaces at Lower Kilmacud Road, c. 3km south east of the subject site and permission (D18A/0995) was granted in 2018 for 32 no. bed spaces at Stillorgan Road, c. 2.1km south east of the subject site.
- 10.5.6. In total there are 2,912 no. student bed spaces on the UCD Belfield Campus with an additional 924 no. bedspaces under construction and permission for an additional 1,252 no. bedspaces. Permission has been granted for 239 no. spaces within 1km of UCD and 608 no. spaces outside of 1km of UCD. The applicants Planning Report states that there are an estimated 32,387 no. students enrolled in UCD. The proposed development would provide an additional 698 no. student bed spaces located 850m from the UCD Belfield campus. The site is well connected to the campus by cycle tracks and footpaths. The no. 11 bus also operates along the Goatstown Road, which provides a link to the UCD campus and wider environs.
- 10.5.7. The Department of Education and Skills National Student Accommodation Strategy states a target of the construction of at least an additional 21,000 student accommodation bedspaces by 2024. The Q3 2019 Progress Report on the National Student Accommodation Strategy states that as of the end of Q3, 2019, a total of 8,229 bed spaces have been completed. Further to this, there are 5,254 bed spaces on site and plans approved for an additional 7,771 bed spaces, representing a total of 21,254 bed spaces either complete, under construction or with plans granted at the end of Q3 2019. While it is noted that planning permission has been granted for 254 no. spaces over the target of 21,000 spaces, no breakdown of the location of these spaces have been provided. In my opinion, the granting of planning permission alone, does not necessarily guarantee delivery in accordance with targeted timeframes and that attention needs to be paid to the actual delivery of student bedspaces. Having regard to the location of the subject site, c. 850m from the UCD Belfield campus and the information submitted by the applicant as outlined above, it is my view that there is an under supply of purpose built student accommodation in the area and the scheme



should be assessed on its merits. It is also noted that the planning authority raised no objection in principle to the proposed use and considered that the subject site is an acceptable location for purpose built student accommodation.

10.5.8. Third parties and the planning authority have also raised concerns that due to a lack of demand for student accommodation that the proposed development would be used as a co-living development or for short term tourist accommodation. The proposed use of the student accommodation for short term tourism letting outside of term time is acceptable and in accordance with the definition of student accommodation under the Planning and Development (Housing) and Residential Tenancies Act 2016. Having regard to the proximity to public transport and the amenities including the wider tourist destinations served, I have no issues in this regard. Similarly, with respect to the concerns raised by the observers regarding the potential use for co-living units, I note permission is sought for student accommodation, the use of which can be controlled by way of condition to any grant of permission. It should be noted that any alterations to the permitted use would require a separate grant of planning permission.

10.5.9. Concerns have also been raised by third parties that shared living poses a dangerous health environment during the Covid-19 pandemic. An Bord Pleanála is not a public health authority and that there are currently no health policy restrictions on the development or operation of student accommodation, which have remained in operation during the pandemic. It is also noted that the pandemic is considered to be temporary in nature. I consider that matters relating to health and safety risks that may or may not arise are ultimately matters that would be dealt with more appropriately outside of the planning process. Therefore, I have no objection to the development on grounds of public health.

## 10.6. ***Quantum of Development***

10.6.1. The planning authority's fifth reason for refusal considered that the proposed density is in excess of the range established for lands in institutional use and would therefore, contravene the development plan and deviated from the existing pattern of development. Concerns are also raised by third parties that the density of the scheme is excessive, and the proposed scheme would result in overdevelopment of the site.

- 10.6.2. The proposed development comprises the demolition of part of the Goatstown Afterschool building (558sqm), the provision of a temporary prefabricated structure (161sqm) to the south of the remaining building and the construction of a Student Accommodation development containing 698 no. bedspaces with associated facilities in 8 no. blocks. The development ranges in height from 3 to 7-storeys. 679 no bedspaces are provided in 99 no. clusters ranging in size from 5 no. bedspaces to 8 no. bedspaces. Each cluster includes a communal Living / Kitchen / Dining room. The remaining 19 no. bedspaces are provided in accessible studio units. The blocks are identified by the applicant as the north block, the middle block, the south block and 5 no. mews blocks (A-E). The blocks have a north-south orientation and generally run parallel to each other with separation distance of c. 20m between the blocks.
- 10.6.3. The proposed scheme is contemporary with a similar design approach to all blocks. The external materials reflect those of the adjacent residential and educational buildings and include a light brown brick and a white reconstituted stone. The set-back top floor would be clad in grey reconstituted stone. It is my view that the proposed materials are high quality and would result in a distinctive character for the site.

**North Block:** This block is located in the northern portion of the site, to the south of the adjacent hockey pitch. It is part 5 and part 6 storeys in height over a lower ground floor. It accommodates 119 no. bedspaces.

**Middle Block:** This block is located to the south of the north block. It is part 5 and part 6 storeys in height over a lower ground floor level. It accommodates 167 no. bedspaces and 1 no. studio unit. Residential amenity and support areas (bicycle store, music room, movie room and laundry room) are provided at ground floor level.

The Middle Block and South Block are connected at ground floor level only via a single storey main reception area and a main common room.

**South Block:** This block is located to the south of the middle block and to the north of mews blocks B-E and west of mews block A. It is part 5 and part 6 storeys in height. It accommodates 141 no. bedspaces and 18 no. studio units. Residential amenity and support areas (study space, gym, meeting room, pray room, yoga studio and

communal dining room) and staff and ancillary facilities are provided at ground floor level.

**Mews Block A:** This block is located to the east of the South Block and to the west of 'The Grove'. It is 4-storeys in height and accommodates 56 no. bedspaces.

**Mews Blocks B – E:** These blocks are located along the southern site boundary, to the north of dwellings on Larchfield Road and to the south of South Block and Mews Block A. These blocks are 3-4 storeys in height. Mews Block B and E accommodate 42 no. bedspaces each and Mews Blocks C and D accommodate 56 no. bedspaces each.

- 10.6.4. Policy RES5 establishes a density range of 35 - 50 units per ha for institutional lands. There is no standard density for student accommodation. The planning authority recommend using a cluster based assessment of 4-persons per unit for assessing density, therefore, the development would have a density of 82 no. units per ha. The planning authority considered that the proposal is not in accordance with the density parameters applicable to lands with the institutional objective. The applicant considers that the scheme has a density of 55.6 no. clusters per ha based on 99 no. clusters plus 19 no. studios on a 2.12 ha site. It is acknowledged that there is no standard for assessing density for a student accommodation scheme, however, in my view due to the proposed scale of the development it is considered that it would exceed the 35 – 50 units per ha as set out in policy RES 5. However, having regard to Section 2.1.3.5 which states that in certain instances higher densities will be allowed where it is demonstrated that they can contribute towards the objective of retaining the open character and/or recreational amenities of the lands. It is my view that the proposed scheme would support the provision of an open character and provide recreational amenity within the site and, therefore, the proposed development would be in accordance with Section 2.1.3.5 of the development plan which allows for higher densities and would not be a material contravention. Notwithstanding this the issue of material contravention is addressed below in Section 10.14.
- 10.6.5. Plot ratio is a tool to help control the bulk and mass of buildings and site coverage can prevent the adverse effects of overdevelopment. The scheme has a plot ratio of 1.05 and a site coverage of 23%. The development plan does not set out standards for plot

ratio or site coverage, however, in my opinion having regard to the urban nature of the site this is considered acceptable. While it is acknowledged that this is significantly denser than the adjoining housing on Friarsland Road, Friarsland Avenue and Larchfield Road it is my view that the proposed scheme should be viewed in the context of the immediate vicinity of the site, which has experienced a transition from a low density, single and two storey suburban area to a more urban area, with a mix of different types of dwellings, including apartment blocks of varying heights and significantly increased densities. These surrounding developments include 'The Grove', 'The Oaks' and 'Trimbleston' which are located to the south east of the subject site and front onto Goatstown Road. These developments comprise a mix of houses, duplexes and apartments and ranging in height from 4 – 5 storeys. It is also noted that permission was granted (308353-20) in 2021 for a student accommodation with a maximum height of 6-storeys at the former Vector Motors site, c. 260m south east of the site.

- 10.6.6. Objectives 4, 13, 33 and 35 of the National Planning Framework, RPO 5.4 and RPO 5.5 of the Regional Spatial and Economic Strategy 2019-2031 and SPPR3 and SPPR4 of the Urban Development and Building Heights Guidelines, all support higher density developments in appropriate locations, to avoid the trend towards predominantly low-density commuter-driven developments.
- 10.6.7. In my view, the proposed development does not represent overdevelopment. This site is capable of accommodating a high density scheme and the development of this site is welcomed. The proposed quantum of development is appropriate in this instance having regard to national policy, the site's size, the nature of the development and the area's changing context.
- 10.6.8. The works also include the demolition of a section of the Goatstown Afterschool building. The existing facility comprises a single storey block (397sqm) with a 2-storey extension (558sqm). It is proposed to demolish the 2-storey extension (558sqm), which the applicant has stated is no longer in use and has fallen into a state of disrepair. It was noted on a site visit on the 22<sup>nd</sup> April that the building is vacant. It is proposed to repair the façade and retain the original building. The proposed 161sqm prefabricated structure is intended to be utilised by the afterschool during the

construction works. I have no objection in principle to the works associated with the afterschool building.

## 10.7. **Height**

- 10.7.1. As noted above, the proposed development ranges in height from 3 to 7 storeys. Due to the topography of the site the development would be viewed as 6 storeys (18m above ground floor level) when viewed externally from the site. The north block and the middle block range in height from 5 to 6 storeys over lower ground floor level and, therefore, comprise of 7 storeys (22.3m).
- 10.7.2. Third parties raised concerns regarding the proposed height of the development and its impact on the visual amenities of the area. The planning authority considered that while the proposal would have a moderate negative impact from certain locations, the proposed heights are not anticipated to have a negative visual impact over the larger area and the development of the subject site at the proposed heights is deemed to contribute to national objectives of compact growth and sustainable use of land within existing built up areas.
- 10.7.3. Policy UD6: Building Height Strategy requires that developments 'adhere to the recommendations and guidance set out within the Building Height Strategy for the County'. The Building Height Strategy is set out in appendix 9 of the Development Plan. Section 4.8 of Appendix 9 of the development plan sets out guidance in relation to a 'Residual Suburban Area not included within Cumulative Areas of Control' which states that a general recommended height of two storeys shall apply. Section 4.8 further states that in the established commercial core of these suburban areas 3-4 storey apartment or town house developments may be permitted in appropriate locations. It is my view, that the subject site is located in an established suburban area and not located in a commercial core and, therefore, is not in accordance with the provision Section 4.8 to allow for 3-4 storeys in height.
- 10.7.4. The plan also allows for minor modification up or down in height by up to 2-storeys subject to certain criteria. It is considered that 'upward modifiers' have been met due to the sites size, the significant provision of public open space and as it would provide new purpose built accommodation for third level students. This would allow for a maximum of 4-storeys.

- 10.7.5. It is noted that the planning authority considered the proposed building heights to be in accordance with the development plan and the Building Height Guidelines. Section 3.2 of the Urban Development and Building Heights Guidelines sets out criteria for assessing the scale of the development with regard to the city, street and site level including, proximity to high frequency public transport; integration / enhancement of the character and public realm of the area; response to overall natural and built environment; architectural response; urban design; improved legibility; mix of uses and building typologies. Additional specific assessment may also be required for issues including daylight and sunlight; microclimate; communication. Having regard to the information outlined above it is my view, that the proposed development would be in compliance with SPPR3, having specific regard to the high-quality design and layout of the scheme and its contribution to the consolidation of the urban area. While I agree with the planning authority that the proposed building height is in accordance with the provision of the Building Height Guidelines it is my view that having regard to the provisions of Section 4.8 as they relate to 'Residual Suburban Area not included within Cumulative Areas of Control' the proposed building height does not accord with Policy UD6 or Appendix 9 of the Development Plan. The issue of material contravention is addressed below in Section 10.14.
- 10.7.6. A booklet of photomontages is included with the application which provides a comparison of the existing site and the proposed development during both summer and winter months from 14 no. viewpoints. It is my view that the submitted photomontages provide a reasonable representation of how proposed development would appear. The applicants Landscape and Visual Impact Assessment found that once operational, the proposed development would have a generally neutral impact on 12 no. views. With regard to 1 no. view from an area of open space on Friarsland Road and 1 no. view looking south (towards the site) from Friarsland Road, the long term impact is considered to be slight and negative. Although not assessed by the applicant I would agree with the third parties that the proposed development would also be visible when viewed from the rear amenity spaces of properties on Friarsland Road, Friarsland Avenue and Larchfield Road. However, having regard to the stepped approach to height and the separation distances proposed, it is my view that the proposed development would not have a significant impact on the visual amenity of

the existing dwellings. The impact on residential amenity is addressed below in Section 10.8.

10.7.7. As noted above, the site is located in an area of transition, while the 2-storey suburban housing to the south and west are noted. It is my opinion that the proposed height should be considered in the context of the existing developments to the south east of the site. In this regard the 'The Grove' development which has a maximum height of 5 storeys, the 'The Oaks' development which has a maximum height of 5 storeys and 'Trimbleston' development which has a maximum height of 5 storeys. It is also noted that permission was granted (308353-20) in 2021 for a student accommodation development with a maximum height of 6-storeys at the former Vector Motors site, c. 260m south east of the subject site. Having regard to the separation distance, c. 180m, of the subject site from Goatstown Road and as part of the site is on lower lying land (c. 2m) these development are more visible than the proposed scheme. In my view these existing development provide a positive contribution to the streetscape and do not dominate the skyline or have a negative impact on the visual amenities.

10.7.8. It is noted that the scheme would introduce a new feature in the skyline, however, having regard to the high quality design and layout of the scheme, which includes a stepped approach with the highest elements located within the northern and central portions the development, away from the existing low density housing, and the separation distances between the blocks and the adjoining properties, it is my view that the proposed height would not be excessive and should be considered in the changing character of the area and a transition towards higher density residential development. Therefore, having regard to the changing character of the surrounding area it is my view that the proposed development would not negatively impact on the visual amenities or character of the area.

10.7.9. In conclusion, having regard to high quality design and layout of the scheme and the landscaping proposals for the subject site, it is my view that the proposed development would consolidate the urban setting of the area and that the existing visual amenities would not be negatively impact by the proposed development. In addition, having regard to the Guidelines on Urban Development and Building Heights, I am satisfied that the proposed development represents a reasonable response to its context and is stepped down at site boundaries, to reduce impacts on adjacent properties.

10.8. ***Residential Amenity / School Amenity***

10.8.1. Concerns were raised by third parties that due to the height and proximity of the development to site boundaries that it would have a negative impact on the existing residential amenities of adjacent properties in terms of overlooking, overshadowing and overbearing impact. It is also considered that the proposed development would unduly overlook the secondary school hockey pitch. It is noted that the planning authority raised no objection with regard to impact on residential or school amenity.

10.8.2. The proposed blocks are arranged in a north south direction. Therefore, the gable ends of the blocks, which have limited windows are located adjacent to the rear gardens of properties on Friarsland Road. The western elevation of Mews Block E, which is 3-storeys in height, is located c. 17m from the site's western boundary and a minimum of c. 29m from the rear elevation of the adjacent 2-storey dwellings on Friarsland Road. It is noted that there are no windows on the western elevation of Mews Block E. The western elevation of the southern and middle blocks, which are 6-storey over basement (21.3m) in height, are located c. 27m from the western site boundary and a minimum of c. 38m from the rear elevation of single storey and 2-storey dwellings on Friarsland Road. The western elevation of the northern block, which is 6-storeys over basement (21.3m) in height is located c. 29m from the western site boundary and a minimum of c. 36m from the rear elevation of single storey dwellings on Friarsland Road. The eastern (side) elevation of Mews Blocks A and B, which are 4 storeys in height, are located c. 12m from the eastern site boundary and c. 25m from the rear elevation of 3-storey dwelling in 'The Grove'. The southern elevation of Mews Blocks B, C, D and E, which are 3-storeys in height, are located c. 11m to 20m from the southern site boundary and a minimum of c. 40m from the rear elevation of 2-storey dwellings on Larchfield Road to the south and a minimum c. 25m from the rear elevation of 2-storey dwellings on Friarsland Avenue to the south east of the development. Having regard to the information submitted, the separation distances, the relatively limited heights and the position of windows it is my view that the proposed development would not result in any undue overlooking or overbearing impact on the adjacent properties.

10.8.3. The applicants Daylight and Sunlight Assessment report considers *inter alia* potential daylight provision within the proposed scheme and overshadowing within the scheme.



This assessment notes the use of the BS 8206-2: 2008 Code of Practice for Daylighting and the BRE guidance document: - site layout planning for daylight and sunlight (2011). While I note and acknowledge the publication of the updated British Standard (BS EN 17037:2018 'Daylight in buildings'), which replaced the 2008 BS in May 2019 (in the UK), I am satisfied that this document / updated guidance does not have a material bearing on the outcome of the assessment and that the relevant guidance documents remain those referenced in the Urban Development & Building Heights Guidelines.

- 10.8.4. The Daylight and Sunlight Assessment Report assessed the impact of the development on the surrounding properties 'The Grove', Friarsland Avenue, Larchfield Road, Friarsland Road, Roebuck Downs and the school campus in accordance with BRE Guidelines. The Guidelines state that a proposed development could possibly have a noticeable effect on the daylight received by an existing window if the VSC (Vertical Sky Component) value drops below the guideline value of 27% and the VSC value is less than 0.8 times the baseline value. The Guidelines also state that a proposed development could possibly have a noticeable effect on the sunlight received by an existing window if the APSH (Annual Probably Sunlight Hours) value drops below the annual (25%) or winter (5%) guidelines and the APSH value is less than 0.8 times the baseline value and there is a reduction of more than 4% to the annual APSH. The assessment found that all windows assessed would reach or exceed the BRE standard and the impact of the development would be imperceptible on all adjoining properties. The Daylight and Sunlight Assessment Report also assessed the potential impact of the proposed development on existing gardens and amenity spaces. It is noted that the proposed development would not unduly overshadow any rear garden or amenity space and that all gardens and amenity spaces would receive at least 2 hours of sunlight on the 21<sup>st</sup> March in accordance with the BRE guidelines. Having regard to the information submitted it is my view that the proposed development would not result in any undue overshadowing on the adjacent properties.
- 10.8.5. While it is acknowledged that the proposed development would introduce a new feature in the skyline when viewed from the rear gardens of residential properties to the south (Larchfield Road), south east (Friarsland Avenue and 'The Grove') and west

(Friarsland Road) it is my view that it would not negatively impact on the existing residential amenities of these properties.

- 10.8.6. Concerns were raised by third parties regarding undue overlooking of the school grounds, in particular the hockey pitch. The northern elevation of the northern block is located c. 7.7m from the northern site boundary and c. 16m from the boundary with the hockey pitch. All windows on the northern elevation have been angled away from the hockey pitch in a westerly direction. Having regard to orientation of the windows and the separation distance it is my view that the proposed development would not result in undue overlooking of the hockey pitch. I would also agree with the planning authority's assessment that the provision of angled windows ensures that the proposed development would not constrain any future development potential of the hockey pitch site. The eastern (side) elevation of the development is located in excess of c. 40m from the western (side) elevation of the secondary school. In my view, having regard to the separation distances the proposed development would not result in any undue overlooking of the school grounds.

#### *Noise*

- 10.8.7. Third parties also raised concerns regarding undue noise disturbance from the proposed development. The applicants Assessment of Noise and Vibration Impacts report notes that the proposed development may result in noise disturbance for residents / school buildings within 35m of the construction works and that standard mitigation measures would be put in place. With regard to the operational phase the report states that undue noise disturbance from plant machinery would be mitigated by the design and location of plant to ensure there are no negative impacts within the scheme or for adjacent properties. Having regard to the baseline noise within the site it is considered that all other noise generated by the development would be reasonable. Having regard to the location of the development in the urban area and the residential nature of the proposed use. It is my view that the proposed residential use would not result in an unacceptable level of noise disturbance for adjacent uses.

#### *Future Residential Amenities*

10.8.8. The planning authority's sixth reason for refusal considered that the limited width (2m) of the rooms does not provide future residents with an adequate level of amenity.

10.8.9. In terms of the provision of acceptable accommodation for students, it is noted that there are no national design standards other than those issued under Section 50 of the 1999 Finance Act. Section 8.2.3.4 (xii) of the development plan requires student accommodation proposals to comply with these guidelines. The Section 50 guidelines set out the following guidance:

- Single study bedroom 8sqm
- Single study bedroom with en-suite shower, toilet and basin 12sqm
- Twin study bedroom 15sqm
- Twin study bedroom with en-suite shower, toilet and basin 18sqm
- Single Disabled study bedroom, with en-suite disabled shower, toilet and basin 15sqm

10.8.10. Drawings submitted indicate 3 no. bedroom types. In this regard a 12.4sqm typical unit, an 18.2sqm typical L-shaped unit and a 26.3sqm studio unit. The 12.4sqm typical unit has a width of c. 2.1m and the typical L-Shaped and studio units have a width of 4.3m. The scheme includes 19 no. studio units. The breakdown between typical en-suite room and an L-shaped unit is not provided. However, Drawing P55 indicates that a typical 8 no. room cluster includes 1no. L-shaped unit and 7 no. standard units. As the scheme includes 99 no. clusters it is assumed that there are c. 99 no. L-shaped rooms and c. 580 no. typical rooms.

10.8.11. While the concerns of the planning authority are noted regarding the relatively narrow width of the rooms, it is noted that the room sizes are in accordance with the sizes set out in the Section 50 guidelines. In the absence of clear guidance on minimum room widths, it is my opinion that the proposed room layouts are acceptable.

10.8.12. While it is acknowledged that the room sizes are narrow, in my view the on-site communal facilities provide a compensatory amenity. In this regard it is noted that a typical 8 no. person cluster kitchen provides 4sqm per person. The scheme also includes the provision of 349sqm of communal residential amenity space at lower

ground floor level, including a movie room (108sqm), a music room (42sqm), a laundry room (37sqm) and 1,356sqm of communal residential amenity space at ground floor level including a gym (228sqm), reception desk and seating area (173sqm) a common room (338sqm), a study space (104sqm), a library (64sqm), a yoga studio (74sqm), a prayer room (33sqm) and a group dining room (33sqm). Therefore, a total of 6.5sqm of internal amenity space is proposed per bedspace. Having regard to the internal amenity space and the external amenity space provided in the form of communal courtyards and public open space, as outlined above, it is my view that the proposed development would provide an appropriate level of amenity for future residents.

## 10.9. ***Transportation***

- 10.9.1. Vehicular and pedestrian access to the site are proposed from Goatstown Road via the existing internal access road, which serves the institutional lands and 'The Grove'. There is an additional pedestrian link from 'The Grove' onto Friarsland Avenue. The scheme has been designed to allow for a future pedestrian link to Friarsland Road, via the hockey pitch to the north of the subject site.
- 10.9.2. Concerns were raised by third parties that the subject site is not well connected to public transport and, therefore, is not suitable for a higher density development. The subject site is located on zoned and services lands c. 4.3km south of the city centre (St. Stephens Green) and c. 850m from UCD Belfield Campus entrance on Roebuck Road. The site is connected to UCD by a cycle track and high quality footpaths on both sides of the roads. Goatstown Road is also served by the no. 11 bus route. In addition, the site is located c. 750m from the no. 17 route on Roebuck Road. The site is also located within 1.3km of the Dundrum Luas stop. It is, therefore, my view that this urban site is highly accessible and suitable of accommodating a higher density.
- 10.9.3. The proposed scheme includes 9 no. car parking spaces and 4 no. motor cycle spaces. Third parties have raised concerns regarding the under provision of car parking on site and the potential for overspill car parking onto the surrounding road network and school drop off zone.
- 10.9.4. Table 8.3.2 of the development plan sets out residential car parking standards which permit 1 no. space per 1-bed unit and 1.5 no. spaces per 2-bed unit. There is no standard for student accommodation. The development plan includes a caveat that

reduced car parking standards for any development may be acceptable dependant of specific criteria including the site location, proximity to public transport and the nature and characteristics of the site. The applicants Statement of Material Contravention also sets out a justification for the proposed level of car parking. However, having regard to the above it is my view that the proposed level of car parking is not a material contravention of the development plan. It is noted that the planning authority have not raised the issue of material contravention with regard to car parking provision.

- 10.9.5. The planning authority raised no objection to the level of car parking and considered that having regard to the limited opportunity for overspill car parking, the distance from UCD and the good cycling and pedestrian infrastructure in the area, the proposed car parking provision is deemed acceptable in this instance.
- 10.9.6. The applicants Transportation Statement states that a Parking Management Strategy would be incorporated to proactively managed demand for on-site parking and all staff would be encouraged to use the available sustainable modes of transport. A Mobility Management Plan has also been submitted with the application which sets out measures and targets to support sustainable travel during the operational phase of the scheme.
- 10.9.7. Section 5 of the applicants Transportation Assessment outlines CSO information on trip generation information for similar developments in the city (UCD Belfield, Trinity Halls and Marino Court), which indicated a modal split for the proposed scheme during the AM peak of 64.5% walking, 30% cycling, 5% by public transport and 0.5% driving.
- 10.9.8. Having regard to the nature of the proposed use, which is a professionally managed student accommodation scheme, and the sites location c. 850m from the UCD campus it is my view that the future occupants are unlikely to generate a significant demand for car parking. While the third-party concerns regarding overspill car parking onto the surrounding road network are acknowledged, it is my view, that sufficient car parking has been provided within the site to serve the proposed development.
- 10.9.9. Section 4.2 of the planning authority's Standards for Cycle Parking and Associated Cycling Facilities for New Developments set out a standard for student accommodation developments of 1 no. long term space per 2 no. bedrooms and 1 no. short term (visitor) space per 5 no. bedrooms. Therefore, there is a requirement for

489 no. spaces. The proposed scheme includes 860 no. cycle parking spaces. The spaces are provided throughout the scheme. It is noted that the planning authority's Transportation Section are seeking an increase in visitor cycle parking spaces at the entrance to the site. The scheme includes 16 no. Sheffield type stand at the entrance plaza to the development. In my view, having regard to the nature of the scheme this is a sufficient number of visitor spaces at the entrance to the development. Notwithstanding this, it is my view that should a requirement for additional visitor spaces arise during the operational phase of the scheme there is sufficient space to allow for an increase in spaces, which could be facilitated by the management of the scheme.

10.9.10. Concerns were also raised regarding the potential conflict between cyclist / pedestrians and vehicular movements during the peak period (school drop off and collection). While it is noted that the proposed development would increase the number of pedestrians and cyclist movements in the AM peak it is my view that having regard to the high quality pedestrian and cycling facilities that link the site to the UCD campus the proposed scheme safety levels should not be adversely impacted.

#### 10.10. **Water Services**

10.10.1. The proposed development would connect to the existing public water mains and public sewer under Goatstown Road. A connection to the public system would be made via private infrastructure under the internal access road. It is noted that a letter of consent to these works is included in Appendix H of the Infrastructure Design Report. Irish Water acknowledged that the applicant has engaged with IW in respect of the design proposal and has been issued with a Statement of Design Acceptance for the development. The applicant has stated that all upgrade required to the public network would be at their expense. It is noted third parties have raised concerns regarding the capacity of the existing system to accommodate the proposed development. Having regard to the information submitted I am satisfied that there are no infrastructural aspects to the proposed development that present any conflicts or issues to be clarified.

- 10.10.2. A Site-Specific Flood Risk Assessment (FRA) was submitted which considered the potential sources of flooding. The OPW maps indicate that the site is located outside of a flood zone and that there is no record of historic flood on the site.
- 10.10.3. The FRA noted that there is a medium risk of pluvial flooding relating to the proposed surface water drainage network (blockage or surcharge) and human / mechanical error. It is considered that this risk could be mitigated by surface water management. It is stated that the development would be managed, and a maintenance person would monitor the drainage elements of the development. The scheme includes standard SuDS features, including the attenuation, green roofs, permeable paving and surfaces, synthetic grass, raingardens, swales and tree pits. Due to the lower levels in the northern courtyard it is not possible to drain surface water run off by gravity, therefore, it is proposed to pump surface water from the courtyard toward the northern block. It is proposed to discharge the surface water run off to the existing public system. An overland flow route is proposed along the site's perimeter. It is noted third parties have raised concerns regarding the requirement to pump surface water within the site. Having regard to the information submitted I have no objection to the proposed surface water management proposals.
- 10.10.4. The FRA also addresses concerns regarding an existing ditch to the rear of houses on Larchfield Road. It is noted that historical mapping indicates a ditch along the site's southern boundary. Surface water to this ditch was via a pipe from Friarsland Avenue. Occasional flooding occurred on Friarsland Avenue due to blockages of this pipe. Drainage works were completed in 2018 to divert this pipe to the new surface water network was implemented as part of 'The Grove' development. Following the completion of these works flooding has not occurred and is not anticipated.
- 10.10.5. The FRA further notes the site is not located near areas at risk of fluvial, coastal or groundwater. Having regard to the information submitted I am satisfied that the proposed arrangements are sufficient to cater for surface water run-off relating to the site and would not result in a flood risk to the site or of adjacent properties. It is noted that the planning authority raised no objection to the proposed surface water drainage proposals.

10.10.6. Concerns were also raised by third parties regarding the under provision of green roofs. Section 3.1 of Appendix 16 of the development plan requires that green roofs, where required, shall cover a minimum of 60% of the roof area. The submitted Infrastructure Design Report provides details the green roof extents and PV panel design. It is noted that 55% of the roof area would be green roofs and the remaining 45% would be utilised for PV panels, lift access opes and buffer areas. Other SuDS measures are proposed to make up the shortfall (5.2%). Section 3.1 of Appendix 16 provides a caveat that green roofs can be exempted by the planning authority subject to the provision of a range of complimentary or alternative “soft” SuDS measures being proposed. It is my view that the additional SuDS measures bring the proposed development into compliance with the green roof policy and, therefore, I do not consider that the development would be a material contravention of the development plan. It is noted that the report of the planning authority’s Drainage Section raised no objection in principle to the proposed surface water management on site.

10.10.7. The submission from Inland Fisheries Ireland states that Ringsend Wastewater Treatment Plant is currently working at or beyond capacity and will not be fully upgraded until 2023. It is essential that local infrastructural capacity is available to cope with increased surface and foul water generated by the proposed development in order to protect the ecological integrity of any receiving aquatic environment. The site is zoned for development through the land use policies of the Dun Laoghaire Rathdown Development Plan 2016 - 2022. This statutory plan was adopted in 2016 and was subject to AA by the planning authority, which concluded that its implementation would not result in significant adverse effects to the integrity of any Natura 2000 areas. I note also the development is on serviced lands in an urban area. As such the proposal will not generate significant demands on the existing municipal sewers for foul water and surface water. Furthermore, I note upgrade works have commenced on the Ringsend Wastewater Treatment works extension permitted under ABP - PL.29N.YA0010 and the facility is subject to EPA licencing and associated Appropriate Assessment Screening. It is also noted that the planning authority and Irish Water raised no concerns in relation to the proposed development.

10.11. ***Ecology***



- 10.11.1. Third parties raised concerns that the information provided in the Ecological Assessment is out of date. The applicants Ecological Impact Assessment notes that the desktop research and site visits were carried out in 2018 in relation to the previous application on the site and during November 2020 the desktop research was updated, and an additional site walkover survey was carried out to provide up to date information. The dates of the site surveys are included in Table 1 of the report. It is noted that an updated internal survey of the afterschool building (to be demolished) was not carried out. However, the report notes that from the information gathered in the 2018 inspection the building was not considered to be of low suitability for bats and no evidence of roosting bats was observed. It is also noted that this building has a flat roof and, therefore, no roof space to inspect.
- 10.11.2. The report noted that the site comprises primarily dry meadow and grassy verges with spoil and bare soil. The proposed development would result in the loss of treeline habitat. The report recommends a number of mitigation measures to avoid or minimise the effects on the receiving ecological environment, which includes the retention and protection of vegetation during construction, provision of bat boxes and avoidance of tree felling between March and August to avoid direct impacts on nesting birds.
- 10.11.3. Having regard to the proposed mitigation measures, the high quality landscaping proposals including the retention of existing trees and vegetation and the significant area of open space, it is my opinion that the proposed development would not have a significant negative impact on the biodiversity of the area.

## 10.12. ***Built Heritage***

- 10.12.1. Concerns are raised by third parties that the proposed development does not have significant regard to Roebuck Grove House (Goatstown House) which is located adjacent to the site and within the ownership of the applicant. Roebuck Grove House is located to east of the subject site and outside of the red line boundary. This site is also located outside of the applicant's blue line boundary. This house is not a protected structure or listed on the NIAH. Permission was granted under Reg. Ref. D06A/0858 and amended under Reg. Ref. D16A/0212 (as part of 'The Grove' development) to extend and refurbish Roebuck Grove House to provide 2 no. 4-bed residential units. During a site visit on 22<sup>nd</sup> April 2021 it was noted that hoarding was provided around

Roebuck Grove House and associated open space. No construction work appeared to be underway. The eastern elevation of Mews Block A is located c. 35m from the rear elevation of Roebuck Grove House. It is my view, that the proposed development would not have any impact on the setting of the existing house. Any concerns regarding the refurbishment and extension of Roebuck Grove House are an issue for the planning authority's enforcement section.

#### 10.13. **Part V**

- 10.13.1. Section 7.6 of Appendix 2 of the development plan states that no social housing is required in instances where student accommodation would be provided on the campus of a third level institution. In all other instances of student accommodation, the standard 20% social housing requirement will apply.
- 10.13.2. The proposed development does not include any Part V social units. The report of the planning authority's Housing Section considers that off campus student accommodation is not to be exempt from the requirements of Part V. It is noted that the provision of on-site social housing would not be an appropriate compliance option in this instance, there are alternative Part V compliance options available. In this regard the Council will seek off-site social housing as the preferred compliance option. The planning authority also considered that the non-provision of Part V units is a material contravention and contrary to Section 96 of the Planning and Development Act 2000 (as amended).
- 10.13.3. The applicants Material Contravention Statement states that Part V social housing is not applicable to student accommodation developments, as it does not constitute a house and there would be significant management difficulties that would arise in applying Part V to student accommodation.
- 10.13.4. It is noted that the Board did not apply Part V requirements to the recent permissions for off campus student accommodation at the Vector Motors site (formerly known as Victor Motors), Goatstown Road (ABP-308353-20); at the Avid Technology International site, Carmanhall Road, Sandford Industrial Estate, (ABP 303467-19) and at the Blakes and Esmonde Motors Site, Lower Kilmacud Road, Stillorgan (ABP-300520-18) all of which are located within the administrative boundary of Dun Laoghaire Rathdown. In the absence of clear guidance at a local and national level in

relation to student accommodation and Part V and to the technical difficulties that might arise in terms of ownership and the management of units within a student block (term time and non-term time use) and to the configuration of the student units, which would not comply with the floorspace and amenity requirements for a conventional house / apartment. I am satisfied that Part V of the Planning and Development Acts should not be applied to the proposed student accommodation of the development. Notwithstanding this, it is my view that the proposed development would be a material contravention of Section 7.6 of Appendix 2 of the development plan. The issue of material contravention is addressed below in Section 10.14.

#### 10.14. **Material Contravention**

10.14.1. As outlined above the proposed development would materially contravene the Dun Laoghaire Rathdown Development Plan 2020 with regard to the following: -

- **Building Height:** Policy UD6: Building Height Strategy;
- **Density:** Policy RES5, the INST objective and Section 2.1.3.5; and
- **Part V:** Section 7.6 of Appendix 2.

The applicants Material Contravention Statement submitted with the application addresses and provided a justification for these material contraventions.

**Building Height:** The proposed development ranges in height from 3 - 7 storeys. Policy UD6: Building Height Strategy of the development plan requires that developments '*adhere to the recommendations and guidance set out within the Building Height Strategy for the County*'. The Building Height Strategy is set out in Appendix 9 of the Development Plan. Section 4.8 of Appendix 9 notes that for 'Residual Suburban Areas not included within Cumulative Areas of Control' a general recommended height of two storeys will apply. In addition, in established commercial core of these suburban areas 3-4 storey apartment or town house developments may be permitted in appropriate locations. It is my view, that the subject site is not located in a commercial core and, therefore, is not in accordance with the provision Section 4.8 to allow for 3-4 storeys in height.

The subject site is suitable for upward modifiers, having regard to the planning gain that would be provided in contribution to the public realm and the size of the site which is greater than 0.5ha, can set its own context for development with greater building heights set away from the boundaries. Therefore, in accordance with the provision of the plan a maximum of 4 storeys is permissible on the site.

The proposed development has a maximum height of 7 no. storeys (21.3m), from lower ground floor level and is 6 storeys (18m) in height from ground floor level and, therefore, does not accord with Policy UD6 or Appendix 9 of the Development Plan. It is noted that the planning authority did not raise any concerns regarding a material contravention of the proposed building height.

**Density:** In accordance with the sites INST objective, Policy RES5 and Section 2.1.3.5 of the development plan, the average net density on institutional lands should be in the region of 35 – 50 units per ha. This density relates to housing units. It is acknowledged that there is no standard for assessing density for a student accommodation scheme, however, in my view due to the proposed scale of the development it is considered that it would exceed the 35 – 50 units per ha as set out in the plan. Having regard to the provisions of Section 2.1.3.5 which allows for higher densities where it is demonstrated that they can contribute towards the objective of retaining the open character and / or recreational amenity of the lands, it is my opinion that the proposed development would not be a material contravention of the plan. However, having regard to the concerns raised by the planning authority and third parties regarding the proposed density, it is my opinion, that a cautionary approach should be taken and the issue of material contravention be addressed and justified.

**Part V / Affordable Housing:** Section 7.6 of Appendix 2 of the development plan notes that no social housing will be required in instances where it is proposed that student accommodation is to be provided on the campus of a third level institution. In all other instances of student accommodation, the standard 20% social housing requirement will apply. The proposed development is located outside of a college campus and, therefore, is not in accordance with the provisions of the plan.

10.14.2. The applicants Material Contravention Statement also stated that the Board may consider that the proposed development material contravenes the Dun Laoghaire Rathdown County Development Plan 2016-2022 with regard to the following: -

- **Open Space:** Section 8.2.8.2
- **Trees:** Section 8.2.8.6
- **Car Parking Standards:** Table 8.2.4
- **Green Roofs:** Appendix 16

The applicants Material Contravention Statement submitted with the application addresses and provided a justification for these material contraventions.

**Open Space:** The sites INST objective and Section 2.13.5 and Section 8.2.3.4 (xi) of require that 25% of the site be provided as open space. The proposed development includes 7,956sqm of public open space (37.5%) of the site. In addition, Section 8.2.8.2 of the development plan requires the provision of 15sqm – 20sqm of open space per residential / housing unit. Therefore, there is a requirement for 10,470sqm – 13,960 sqm of open space (698 no. bedspaces by 15sqm – 20sqm). A total of 11,088sqm of open space is proposed which equates to 15.8sqm per person. Section 8.2.8.2(i) further states that a lower quantity of open space (below 20sqm per person) will only be considered acceptable in instances where exceptionally high quality open space is provided on site and such schemes may be subject to financial contributions. As noted above in Section 10.3 it is my view that the scheme results in high-quality usable open space that would benefit the wider community and support the provision of an open space character and recreational amenity space on these institutional lands. Therefore, it is my view that the provision of 15.8sqm of open space per person is in accordance with the provisions of the development plan.

**Trees:** The subject site includes an objective to 'protect and preserve trees and woodland'. Section 8.2.8.6 states new developments shall be designed to incorporate as far as practicable the amenities offered by existing trees and hedgerows and new developments shall have regard to objectives to protect and preserve trees and woodlands. It further states, where it proves necessary to remove trees to facilitate development, the council will require commensurate planting or replacement trees and

other plan material. The scheme has been designed with regard to the retention of a significant number of trees and tree lines within the subject site along the southern and western site boundaries which provides the greatest amenity value to the proposed area of open space and to the amenities of adjacent properties, in terms of screening. While it is noted that the proposed development would result in the loss of 34 no. trees it is also proposed to provide 56 no. additional replacement trees, resulting in a net gain of 22 no. trees within the site. It is my view that the wording of Section 8.2.8.6 is sufficiently flexible to allow for the removal of a number of trees and that the proposed development would not be a material contravention of the plan. It is noted that the planning authority have not raised the issue of material contravention with regard to tree removal.

**Car Parking:** Table 8.3.2 of the development plan sets out car parking standards which permit 1 no. space per 1-bed unit and 1.5 no. spaces per 2-bed unit. There is no standard for student accommodation. The development plan includes a caveat that reduced car parking standards for any development may be acceptable dependant of specific criteria including the site location, proximity to public transport and the nature and characteristics of the site. The proposed development includes the provision of 9 no. car parking spaces. As noted above in Section 10.9, it is my view that the proposed level of car parking is not a material contravention of the development plan. It is noted that the planning authority have not raised the issue of material contravention with regard to car parking provision.

**Green Roofs:** Section 3.1 of Appendix 16 of the development plan requires that green roofs, where required, shall cover a minimum of 60% of the roof area. The submitted Infrastructure Design Report provides details the green roof extents and PV panel design. It is noted that 55% of the roof area would be green roofs and the remaining 45% would be utilised for PV panels, lift access opes and buffer areas. Other SuDS measures are proposed to make up the shortfall (5.2%). It is my view that the additional SuDS measures bring the proposed development into compliance with the green roof policy. As noted above in Section 10.10 Water Services, it is my view that this is not a material contravention of the plan. It is noted that the planning authority have not raised the issue of material contravention with regard to Green Roofs.

10.14.3. Section 37(2)(b) of the Planning and Development Act, 2000 (as amended) states that where a planning authority has decided to refuse permission on the grounds that a proposed development materially contravenes the development plan, the Board may only grant permission in accordance with *paragraph (a)* 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 the 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.

10.14.4. Having regard to the characteristics of the proposed development, Section 37 (2) (b) (i), (iii) and (iv) are considered relevant in this instance.

10.14.5. **Section 37 (2) (b)(i)**

The proposed development falls within the definition of strategic housing as set out in the Planning and Development (Housing) and Residential Tenancies Act 2016 and by the government's policy to provide more housing set out in Rebuilding Ireland – Action Plan for Housing and Homelessness issued in July 2016, the proposed material contravention is justified by reference to section 37(2)(b)(i) of the act.

10.14.6. **Section 37 (2) (b)(iii)**

The proposed material contravention to the **Height** provision is justified by reference to: -

- Objectives 13 and 35 of the National Planning Framework which support increased building heights at appropriate locations .

- SPPR3 of the 2018 Urban Development and Building Heights Guidelines, 2018 which support increased building heights.

The proposed material contravention to the **Density** provision is justified by reference to: -

- Objective 35 of the National Planning Framework which supports increased residential densities at appropriate locations .
- RPO 5.4 and RPO 5.5 of the Eastern and Midland Regional Assembly – Regional Spatial and Economic Strategy (RSES) 2019 which encourage the provision of higher densities and the consolidation of Dublin and suburbs.

#### 10.14.7. **Section 37 (2) (b)(iv)**

The proposed material contravention to the **Part V / Affordable Housing** provision is justified by reference to: -

Since the making of the Dun Laoghaire Rathdown Development Plan 2016- 2022 the Board did not apply Part V requirements for off campus student accommodation developments at Vector Motors site (formerly known as Victor Motors), Goatstown Road (ABP-308353-20); at the Avid Technology International site, Carmanhall Road, Sandford Industrial Estate, (ABP 303467-19) and at the Blakes and Esmonde Motors Site, Lower Kilmacud Road, Stillorgan (ABP-300520-18).

Having regard to the recent permissions granted in the area since the making of the plan the proposed material contravention to Section 7.6 of Appendix 2 as it relates to Part V Social / Affordable Housing is justified by reference to section 37(2)(b)(iv) of the act.

#### 10.14.8. **Conclusion**

Having regard to the provisions of Section 37 (2) (b) of the Planning and Development Act, 2000 (as amended), I consider that a grant of permission, that may be considered to materially contravene the Dun Laoghaire Rathdown Development Plan 2016-2022, would be justified in this instance under sub sections (i), (iii) and (iv) having regard to the Planning and Development (Housing) and Residential Tenancies Act 2016, by



government's policy to provide more housing, as set out in Rebuilding Ireland – Action Plan for Housing and Homelessness issued in July 2016, the National Planning Framework, 2018, the Eastern and Midland Regional Assembly – Regional Spatial and Economic Strategy (RSES) 2019, the Urban Development and Building Heights Guidelines, 2018 and to the permissions granted in the area since the making of the plan.

## 11.0 **Chief Executives Recommendation**

11.1. As noted above the planning authority recommended that permission be refused for 6 no. reasons. In the interest of clarity, the reasons for refusal are addressed outlined below.

### 11.2. ***School Expansion***

The planning authority's first reason for refusal considered that the proposed development would make lands permanently unavailable for school expansion. The development would, therefore, be contrary to Technical Guidance Documents TGD-025 and TGD-027; the 'Code of Practice on the Provision of Schools and the Planning System', Policy SIC8, Section 8.2.12.4; and Section 8.2.12.4 of the Development Plan,

It is acknowledged that the subject site previously formed part of the school campus. However, the subject site has not been identified by the planning authority, the Department of Education and Skills or the Board of Management of either existing school as lands for a future school site or for future school expansion. Having regard to the information submitted with the application (and outlined above in Section 10.2) and to the recent planning permission for a school site (4 no. classrooms) within 550m of the subject site, it is my view that the subject site is unlikely to be required for future school expansion in the short to medium term. With regard to any long term future expansion that may be required, it is my view that having regard to the urban location of this site consideration should be given to the consolidation of the urban environment and the development of the surface car park or areas of open space currently associated with the schools (excluding the hockey pitch).

In conclusion I am satisfied that the proposed development would not inhibit the future expansion of the existing schools on site.

### 11.3. ***Open Character***

The planning authority's second reason for refusal considered that the proposed development would fail to retain 25% of open space across the overall institutional landholding and by virtue of the lack of maintenance of the site's open character due to its layout and massing, would materially contravene Policy RES5 and the INST Objective of the subject lands, and would be contrary to Section 8.2.3.4 (xi) of the Dun Laoghaire-Rathdown County Development Plan 2016-2022.

Section 8.2.3.4(xi) Institutional Lands states that a minimum open space provision of 25% of the total site area (or a population based provision in accordance with Section 8.2.8.2 whichever is the greater) will be required on Institutional Lands.

The proposed development includes the provision of 7,956sqm of public open space which equates to 37% of the site area. If the scheme were permitted there would be a total of 29,135sqm of open space provided across the institutional landholding, which equates to 48% of the total site area. Therefore, the proposed development retains 25% of open space across the overall landholding. As noted above in Section 10.3 it is my view that the institutional lands currently do not have an open character and do not provide any recreational amenity and the proposed development would improve the open character of the site and provide an amenity for the wider area.

Section 8.2.8.2(i) Residential / Housing Developments states that there is a requirement of 15sqm - 20sqm of open space per person for all residential development of 5 or more units. It is noted that Section 8.2.8.2(i) does not differentiate between public, communal or private open space. Therefore, between 10,470 and 13,960 sqm of open space would be required for the subject site. A total of 11,088sqm of open space is proposed which equates to 15.8sqm per person.

Section 8.2.8.2(i) further states that a lower quantity of open space (below 20sqm per person) will only be considered acceptable in instances where exceptionally high quality open space is provided on site and such schemes may be subject to financial contributions. As noted above it is my view that the scheme results in high-quality usable open space that would benefit the wider community and support the provision of an open space character and recreational uses on these institutional lands.

Therefore, it is my view that the provision of 15.8sqm of open space per person is in accordance with the provisions of Section 8.2.8.2(i).

Having regard to the quantity of open space proposed within the scheme and the overall institutional landholding, the urban nature of the site, the lack of existing publicly available open space within the overall institutional landholding and the high quality of the proposed open space within the subject site it is my view that the proposed development is in accordance with the INST objective, Policy RES5 and Section 8.2.3.4 (xi) of the development plan.

In conclusion I am satisfied that the proposed development represents a reasonable response to its context and is acceptable in this instance.

#### 11.4. **Trees**

The planning authority's third reason for refusal considers that the proposed development fails to retain existing high-quality trees on site. Therefore, it is contrary to the specific objective to protect and retain existing trees and woodlands Policy RES5 and the INST Objective.

The proposed development would result in the removal of 34 no. trees and the provision of 56 no. additional trees, which would result in an overall net gain of 22 no. trees on site. There are no category A trees within the site. As noted above in Section 10.3, it is my view that the overall institutional landholding currently does not have an open character and that the proposed development, which includes the provision of public open space, with associated tree planting and landscaping would improve the open character of the site and provide an amenity to the wider area that currently does not exist.

In conclusion I am satisfied that the proposed development represents a reasonable response to its context and is acceptable in this instance.

#### 11.5. **Open Space**

The planning authority's fourth reason for refusal considered that the proposed public open space was deficient in terms of its quality and usability. Therefore, the proposal

is not in accordance with Section 8.2.8.2 of the Development Plan 2016 – 2022. In addition, the communal open space would offer inadequate level of amenity.

The scheme includes 11,088sqm of open space proposed which equates to 37% of the total site area and would result in 29,135sqm of open space on the overall institutional landholding which equates to 48% of the total institutional lands. As noted above, it is my view that the proposed design and layout of the open space would provide an amenity to the wider area that is currently unavailable. Having regard to the width and high quality landscaping and amenities including exercise equipment, basketball hoop, table tennis area I disagree with the planning authority's assessment that that areas of public open space would be incidental lands.

Having regard to the quantity and quality of the open space proposed within the scheme and the overall institutional landholding, the urban nature of the site and the lack of existing publicly available open space within the overall institutional landholding within the subject site it is my view that the proposed development is in accordance with Section 8.2.8.2 of the development plan and Policy RES5. It should also be noted that the site is located within the existing urban area and the development of the site would significantly contribute to the consolidation of the urban environment.

The development includes 2,852sqm of communal open space in 2 no. courtyards which equates to 4sqm per person. The applicants Daylight and Sunlight Assessment Report found that the northern courtyard is 57.6% compliant and the southern courtyard is 63.6% compliant with the BRE guidelines. Having regard to the orientation of the blocks, the sites location within an existing urban area and the proximity to high quality public open space, which reaches and exceeds the BRE Guidelines I have no objection in this instance to the quality or quantity of the ground floor level communal open space. It is also noted that the BRE guidelines are advisory and not statutory, therefore, flexibility in its standards are acceptable.

In conclusion I am satisfied that the proposed level of open space represents a reasonable response to its context and is acceptable in this instance.

## 11.6. ***Density***

The planning authority's fifth reason for refusal considered that the proposed density is in excess of the range established for lands in institutional use and therefore would materially contravene the INST Objective and is a significant deviation from the existing pattern of development and would lead to overdevelopment of the site.

In my view, this site is capable of accommodating a high density scheme and the proposed quantum of development is appropriate in this instance having regard to the site's size, the nature of the development and the area's changing context, in particular having regard to the existing 5-storey development 'The Grove' located to the south east of the site, fronting onto Goatstown Road and the 4 – 5 storey 'The Oaks' development and the 4 storey 'Trimbleston' development are located on the opposite side of the Goatstown Road. It is also noted that permission was granted (308353-20) in 2021 for a student accommodation with a maximum height of 6-storeys at the former Vector Motors site.

As noted above in Section 10.6 it is my view that the proposed density is in accordance with Section 2.1.3.5 of the development plan, which states that in certain instances higher densities will be allowed where it is demonstrated that they can contribute towards the objective of retaining the open character and/or recreational amenities of the lands. However, having regard to the concerns raised by the planning authority in this regard, it is considered that the proposed development would be justified by Objectives 13, and 35 of the National Planning Framework which support increased residential densities and building heights at appropriate locations and SPPR3 of the 2018 Urban Development and Building Heights Guidelines, 2018 which support increased building heights and densities.

In conclusion, I am satisfied that the proposed development represents a reasonable response to its context and is acceptable in this instance.

## 11.7. ***Future Residential Amenity***

The planning authority's sixth reason for refusal considered that the limited width (2m) of the rooms does not provide future residents with an adequate level of amenity.

The concerns of the planning authority are noted regarding the relatively narrow width of the rooms, however, as the room sizes are in accordance with the sizes set out in the Section 50 guidelines, and in the absence of clear guidance on minimum room width sizes are considered acceptable. It is my view that the proposed internal and external amenities associated with the proposed development are sufficient to ensure an appropriate level of amenity for future residents.

In conclusion I am satisfied that the proposed development provides a reasonable level of residential amenity to future occupants and is acceptable in this instance.

## 12.0 **Environmental Impact Assessment (EIA) Screening**

12.1. An Environmental Report was submitted with the application.

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

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

It is proposed to construct 698 no. bedspaces. Having regard to the average household size of 2.7 no. persons, it is considered that the proposed development falls below the 500 dwellings or more criteria. The site has an overall area of approx. 2.2ha and is located within an existing built up area but not in a business district. The area is transitional in character. It is bound by low density single and 2-storey housing to the south and west, high density residential development to the south east and school / institutional uses to the north and east. It is noted that the site is not designated for the protection of the landscape or of natural or cultural heritage and the proposed development is not likely to have a significant effect on any Natura 2000 sites (as discussed below). The development would be in residential use. It would not give rise to waste, pollution or nuisances that differed from that arising from the other housing in the neighbourhood. It would not give rise to a risk of major accidents or risks to

human health. The proposed development would use the public water and drainage services of Irish Water and Dun Laoghaire Rathdown County Council, upon which its effects would be marginal.

12.3. Having regard to: -

- The nature and scale of the proposed development, which is under the mandatory threshold in respect of Class 10 - Infrastructure Projects of the Planning and Development Regulations 2001 (as amended),
- The location of the site on lands that are zoned for residential uses under the provisions of the Dun Laoghaire Rathdown County Development Plan 2016 – 2022 and the results of the strategic environmental assessment of the Dun Laoghaire Rathdown County Development Plan 2016 – 2022 undertaken in accordance with the SEA Directive (2001/42/EC),
- The location of the site within the existing built up urban area, which is served by public infrastructure, and the existing pattern of residential development in the vicinity,
- The location of the site outside of any sensitive location specified in article 109(4)(a) of the Planning and Development Regulations 2001 (as amended) and the mitigation measures proposed to ensure no connectivity to any sensitive location,
- the guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003), and
- the criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended)

Having regard to the limited nature and scale of the proposed development and the absence of any connectivity to any sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded. An EIA - Preliminary Examination form has been completed and a screening determination is not required.

## 13.0 Appropriate Assessment

- 13.1. The proposed development would not be located within an area covered by any European site designations and the works are not relevant to the maintenance of any such sites.
- 13.2. The applicants AA Screening report notes that there is no direct hydrological connection to any designated sites. The site is located within the Liffey and Dublin Bay Catchment. The closest watercourses to the site are Elm Park Stream c 200m north of the site and the River Slang 580m west of the site. The River Slang flows to the River Dodder, which in turn discharges to Dublin Bay. Therefore, there is a potential indirect hydrological link to European Sites within Dublin Bay.
- 13.3. The following 16 no. European sites are located within a 15km radius of the site and separation distances are listed below.

<b><i>European Site</i></b>	<b><i>Site Code</i></b>	<b><i>Distance</i></b>
South Dublin Bay and River Tolka Estuary SPA	004024	2.8km
South Dublin Bay SAC	000210	2.8km
North Dublin Bay SAC	000206	7.5km
North Bull Island SPA	004006	7.5km
Wicklow Mountains SAC	002122	7.6 km
Wicklow Mountains SPA	004040	7.8km
Dalkey Islands SPA	004172	9.7km
Rockabill to Dalkey Island SAC	003000	9.8km
Knocksink Wood SAC	000725	9.9km
Glenasmole Valley SAC	001209	9.9km
Ballyman Glen SAC	000713	11.3km
Howth Head SAC	000202	12.1km
Baldoyle Bay SPA	004016	13km
Baldoyle Bay SAC	000199	13km
Howth Head SPA	004113	14km
Bray Head SAC	000714	15km



- 13.4. The qualifying interests and conservation objectives for each of the designated sites outlined above are provided in Appendix 1 of the Applicants Appropriate Assessment Screening Report.
- 13.5. The designated area of sites within the inner section of Dublin Bay, namely South Dublin Bay SAC, North Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA, North Bull Island SPA are closer to the development site and to the outfall location of the Ringsend WWTP and River Dodder and could, therefore, reasonably be considered to be within the downstream receiving environment of the proposed development and on this basis these sites are subject to a more detailed Screening Assessment.
- 13.6. It is noted that the applicant's Applicants Appropriate Assessment Screening Report also considered that the Rockabill to Dalkey Island SAC and Dalkey Islands SPA could be indirectly hydrologically linked to the site. However, I am satisfied that the potential for impacts on all other Natura 2000 Sites can be excluded at the preliminary stage due to the nature and scale of the proposed development, the degree of separation and the absence of ecological and hydrological pathways.

13.7. **Screening Assessment**

The Conservation Objectives and Qualifying Interests of sites in inner Dublin Bay are as follows:

<b>South Dublin Bay and River Tolka Estuary SPA</b> (004024) - c.2.8 km from the subject site.
<b>Conservation Objective</b> – To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.
<b>Qualifying Interests/Species of Conservation Interest:</b> Light-bellied Brent Goose ( <i>Branta bernicla hrota</i> ) [A046] / Oystercatcher ( <i>Haematopus ostralegus</i> ) [A130] / Ringed Plover ( <i>Charadrius hiaticula</i> ) [A137] / Grey Plover ( <i>Pluvialis squatarola</i> ) [A141] / Knot ( <i>Calidris canutus</i> ) [A143] / Sanderling ( <i>Calidris alba</i> ) [A144] / Dunlin ( <i>Calidris alpina</i> ) [A149] / Bar-tailed Godwit ( <i>Limosa lapponica</i> ) [A157] / Redshank ( <i>Tringa totanus</i> ) [A162] / Black-headed Gull ( <i>Chroicocephalus</i>

ridibundus) [A179] / Roseate Tern (*Sterna dougallii*) [A192] / Common Tern (*Sterna hirundo*) [A193] / Arctic Tern (*Sterna paradisaea*) [A194] / Wetland and Waterbirds [A999]

**South Dublin Bay SAC** (000210) - c. 2.8km from the subject site.

**Conservation Objective** - 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.

**Qualifying Interests/Species of Conservation Interest:** Mudflats and sandflats not covered by seawater at low tide [1140] / Annual vegetation of drift lines [1210] / *Salicornia* and other annuals colonising mud and sand [1310] / Embryonic shifting dunes [2110]

**North Dublin Bay SAC** (000206) – c. 7.5 km from the subject site

**Conservation Objective** - 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.

**Qualifying Interests/Species of Conservation Interest:** Mudflats and sandflats not covered by seawater at low tide [1140] / Annual vegetation of drift lines [1210] / *Salicornia* and other annuals colonising mud and sand [1310] / Atlantic salt meadows (*Glauco-Puccinellietalia maritimi*) [1330] / Mediterranean salt meadows (*Juncetalia maritimi*) [1410] / Embryonic shifting dunes [2110] / Shifting dunes along the shoreline with *Ammophila arenaria* [2120] / Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130] / Humid dune slacks [2190] / *Petalophyllum ralfsii* (Petalwort) [1395].

**North Bull Island SPA (004006) - c. 7.5 km from the subject site.**

**Conservation Objective** – To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA

**Qualifying Interests/Species of Conservation Interest:** Qualifying Interests/Species of Conservation Interest: Light-bellied Brent Goose (*Branta bernicla hrota*) [A046] / Shelduck (*Tadorna tadorna*) [A048] / Teal (*Anas crecca*) [A052] / Pintail (*Anas acuta*) [A054] / Shoveler (*Anas clypeata*) [A056] / Oystercatcher (*Haematopus ostralegus*) [A130] / Golden Plover (*Pluvialis apricaria*) [A140] / Grey Plover (*Pluvialis squatarola*) [A141] / Knot (*Calidris canutus*) [A143] / Sanderling (*Calidris alba*) [A144] / Dunlin (*Calidris alpina*) [A149] / Black-tailed Godwit (*Limosa limosa*) [A156] / Bar-tailed Godwit (*Limosa lapponica*) [A157] / Curlew (*Numenius arquata*) [A160] / Redshank (*Tringa totanus*) [A162] / Turnstone (*Arenaria interpres*) [A169] / Black-headed Gull (*Chroicocephalus ridibundus*) [A179] / Wetland and Waterbirds [A999]

13.8. **Consideration of Impacts on South Dublin Bay SAC, North Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA and North Bull Island SPA**

It is considered that there is nothing unique or particularly challenging about the proposed urban development, either at construction or operational phase.

Surface water from the proposed development will discharge via a new internal storm drainage network to the existing public surface water network and ultimately to Dublin Bay. The habitats and species of Natura 2000 sites in Dublin Bay are between 2.8km and 7.5km downstream of the site and water quality is not a target for the maintenance of any of the QI's within either SAC in Dublin Bay. The surface water pathway could create the potential for an interrupted and distant hydrological connection between the proposed development and European sites in the inner section of Dublin Bay. During the construction phase, standard pollution control measures would be put in place. It is noted that a third party raised concerns that the proposed development relies on mitigation measures to screen out the need for a Stage 2 Appropriate Assessment. Pollution control measures are proposed during both construction and operational

phases. These measures are standard practices for urban sites and would be required for a development on any urban site in order to protect local receiving waters, irrespective of any potential hydrological connection to Natura 2000 sites. In the event that the pollution control and surface water treatment measures were not implemented or failed I am satisfied that the potential for likely significant effects on the qualifying interests of Natura 2000 sites in Dublin Bay from surface water run off 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 Natura 2000 sites in Dublin Bay (dilution factor).

The foul discharge from the proposed development would drain, via the public combined sewer, to the Ringsend WWTP for treatment and ultimately discharge to Dublin Bay. There is potential for an interrupted and distant hydrological connection between the subject site and the designated sites in Dublin Bay due to the wastewater pathway.

The submission from Inland Fisheries Ireland states that Ringsend WWTP is currently working at or beyond its design capacity and will not be fully upgraded until 2023. It is essential that local infrastructural capacity is available to cope with increased surface and foul water generated by the proposed development in order to protect the ecological integrity of any receiving aquatic environment.

The subject site is identified for development through the land use policies of the Dun Laoghaire Rathdown Development Plan 2016-2022. This statutory plan was adopted in 2016 and was subject to AA by the planning authority, which concluded that its implementation would not result in significant adverse effects to the integrity of any Natura 2000 areas. I also note the development is for a relatively small residential development providing for 698 no. bedspaces, on serviced lands in an urban area. As such the proposal will not generate significant demands on the existing municipal sewers for foul water and surface water. Furthermore, I note upgrade works have commenced on the Ringsend Wastewater Treatment works extension permitted under ABP – PL.29N.YA0010 and the facility is subject to EPA licencing (D0034-01) and associated Appropriate Assessment Screening. It is also noted that the planning authority and Irish Water raised no concerns in relation to the proposed development.

The applicants AA Screening report notes that the development is anticipated to result in an additional foul water loading value of 706 PE to Ringsend WWTP. The applicants acknowledge that the Ringsend WWTP is currently operating at over its capacity. However, it is noted that despite the capacity issues and non-compliance associated with the Ringsend WWTP its discharge is not having an observable negative impact on water quality of Dublin Bay (EPA 2020).

The applicants Hydrological and Hydrogeological Qualitative Risk Assessment notes that the peak effluent discharge calculated for the proposed development (1.01 litres/sec) would equate to 0.019% of the licensed discharge. While the concerns of Inland Fisheries Ireland are noted it is my view that the foul discharge from the site would be insignificant in the context of the overall licensed discharge at Ringsend WWTP, and thus its impact on the overall discharge would be negligible.

The Construction and Demolition Waste Management Plan and the Operational Waste Management Plan submitted with the application state that all waste from the construction phase and the operational phase would be disposed of by a registered facility.

It is evident from the information before the Board that the proposed development, individually or in combination with other plans or projects, would not be likely to have a significant effect on the South Dublin Bay SAC, North Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA and North Bull Island SPA and that Stage II AA is not required.

#### 13.9. **AA Screening Conclusion:**

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 South Dublin Bay SAC (000210), North Dublin Bay SAC (000206), South Dublin Bay and River Tolka Estuary SPA (004024), North Bull Island SPA (004006), or any European site, in view of the sites' Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

## 14.0 Recommendation

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

## 15.0 Reasons and Considerations

Having regard to

- a. The sites planning history;
- b. The site's location on lands with a zoning objective for residential development;
- c. The policies and objectives in the Dun Laoghaire Rathdown County Development Plan 2016-2022;
- d. Nature, scale and design of the proposed development;
- e. Pattern of existing development in the area;
- f. The provisions for the National Student Accommodation Strategy issued by the Department of Education in July 2017;
- g. The Rebuilding Ireland Action Plan for Housing and Homelessness 2016;
- h. The National Planning Framework issued by the Department of Housing, Planning and Local Government in February 2018;
- i. Regional Spatial and Economic Strategy for the Eastern and Midland Region, 2019 – 2031;
- j. The Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2013;
- k. The Guidelines for Sustainable Residential Developments in Urban Areas and the accompanying Urban Design Manual – a Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009;
- l. The Urban Development and Building Heights Guidelines for Planning Authorities 2019;
- m. Submissions and observations received; and
- n. Chief Executive's Report;

It is considered that, subject to compliance with the conditions set out below, the proposed development 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.

## 16.0 Recommended Order

**Application:** for permission under Section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016, in accordance with plans and particulars, lodged with An Bord Pleanála on the 12<sup>th</sup> day of February 2021 by Thornton O'Connor Town Planning, on behalf of Colbeam Limited.

**Proposed Development:** The demolition of part of the Goatstown Afterschool building (558sqm), the provision of a prefabricated structure (161sqm) to the south of the remaining building and the construction of a Student Accommodation development containing 698 no. bedspaces with associated facilities in 8 no. blocks. The development ranges in height from part 3-storey to part 7-storeys. The units comprise 679 no bedspaces in 99 no. clusters ranging in size from 5 no. bedspaces to 8 no. bedspaces. Each cluster includes a communal Living / Kitchen / Dining room. The remaining 19 no. bedspaces are accessible studios.

The development includes the provision of 349sqm of communal residential amenity space at lower ground floor level, including a movie room (108sqm), a music room (42sqm), a laundry room (37sqm) and 1,356sqm of communal residential amenity space at ground floor level including a gym (228sqm), reception desk and seating area (173sqm) a common room (338sqm), a study space (104sqm), a library (64sqm), a yoga studio (74sqm), a prayer room (33sqm) and a group dining room (33sqm).

The scheme also includes staff and administrative facilities (195sqm), 9 no. car parking spaces, 4 no. motor cycle spaces, 86 no. cycle parking spaces, refuse stores, signage, an ESB substation and switch room, boundary treatments, green roofs, PV panels, hard and soft landscaping, plant, lighting and all other associated site works.

**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.

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

- a) The sites planning history;
- b) The site's location on lands with a zoning objective for residential development;
- c) The policies and objectives in the Dun Laoghaire Rathdown County Development Plan 2016-2022;
- d) Nature, scale and design of the proposed development;
- e) Pattern of existing development in the area;
- f) The provisions for the National Student Accommodation Strategy issued by the Department of Education in July 2017;
- g) The Rebuilding Ireland Action Plan for Housing and Homelessness 2016;
- h) The National Planning Framework issued by the Department of Housing, Planning and Local Government in February 2018;
- i) Regional Spatial and Economic Strategy for the Eastern and Midland Region, 2019 – 2031;
- j) The Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2013;



- k) The Guidelines for Sustainable Residential Developments in Urban Areas and the accompanying Urban Design Manual – a Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009;
- l) The Urban Development and Building Heights Guidelines for Planning Authorities 2018;
- m) Submissions and observations received.
- n) Chief Executive's Report; and
- o) The Inspectors Report

The Board, in deciding not to accept the refusal recommendations as contained in the Report of the Chief Executive of the Planning Authority, agreed with the Inspector's assessment and recommendation on those matters.

### ***Appropriate Assessment***

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on designated European sites, taking into account the nature, scale and location of the proposed development within an zoned and adequately serviced urban site, the information for the Screening Report for Appropriate Assessment and the Ecological Impact 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 Preliminary Examination of the proposed development Having regard to:

- The nature and scale of the proposed development, which is under the mandatory threshold in respect of Class 10 - Infrastructure Projects of the Planning and Development Regulations 2001 (as amended),
- The location of the site on lands that are zoned for residential uses under the provisions of the Dun Laoghaire Rathdown County Development Plan 2016 – 2022 and the results of the strategic environmental assessment of the Dun Laoghaire Rathdown County Development Plan 2016 – 2022 undertaken in accordance with the SEA Directive (2001/42/EC),
- The location of the site within the existing built up urban area, which is served by public infrastructure, and the existing pattern of residential and institutional development in the vicinity,
- The location of the site outside of any sensitive location specified in article 109(4)(a) of the Planning and Development Regulations 2001 (as amended) and the mitigation measures proposed to ensure no connectivity to any sensitive location,
- the guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003), and
- the criteria set out in Schedule 7 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 the proposed development is, apart from the parameters of the Building Height as set out in Policy UD6: Building Height Strategy; Density as set out in Policy RES5, the INST objective and Section 2.1.3.5 and Part V / Affordable Housing. as set out in Section 7.6 of Appendix 2 of the Dun Laoghaire Rathdown County Development Plan 2016-2022 broadly compliant with the provisions of the

Dun Laoghaire Rathdown County Development Plan 2016-2022 and would therefore be in accordance with the proper planning and sustainable development of the area.

The Board considers that, while a grant of permission for the proposed Strategic Housing Development would not materially contravene a zoning objective of the Development Plan, it would materially contravene the provisions of the Dun Laoghaire Rathdown County Development Plan 2016-2022 with regard to building height, density and Part V / Affordable Housing.

The Board considers that, having regard to the provisions of section 37(2)(b)(i) 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:

- The proposed development falls within the definition of strategic housing set out in Planning and Development (Housing) and Residential Tenancies Act 2016.
- Government's policy to provide more housing set out in Rebuilding Ireland – Action Plan for Housing and Homelessness issued in July 2016

The Board considers that, having regard to the provisions of section 37(2)(b)(iii) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of Policy UD6: Building Height Strategy of the Dun Laoghaire Rathdown County Development Plan 2016-2022 would be justified for the following reasons and considerations:

- Objectives 13, and 35 of the National Planning Framework which support increased residential densities and building heights at appropriate locations .
- SPPR3 of the 2018 Urban Development and Building Heights Guidelines, 2018 which support increased building heights and densities.

The Board considers that, having regard to the provisions of section 37(2)(b)(iii) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of Policy RES5, the INST objective and Section 2.1.3.5 in relation to density of the Dun Laoghaire Rathdown County Development Plan 2016-2022 would be justified for the following reasons and considerations:

- Objective 35 of the National Planning Framework which supports increased residential densities at appropriate locations .
- RPO 5.4 and RPO 5.5 of the Eastern and Midland Regional Assembly – Regional Spatial and Economic Strategy (RSES) 2019 which encourage the provision of higher densities and the consolidation of Dublin and suburbs.

The Board considers that, having regard to the provisions of section 37(2)(b)(iv) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of the Part V / Affordable housing as set out in Section 7.6 of Appendix 2 Dun Laoghaire Rathdown County Development Plan 2016-2022 would be justified for the following reasons and considerations:

- Since the making of the Dun Laoghaire Rathdown Development Plan 2016-2022 the Board did not apply Part V requirements for off campus student accommodation developments at Vector Motors site (formerly known as Victor Motors), Goatstown Road (ABP-308353-20); at the Avid Technology International site, Carmanhall Road, Sandford Industrial Estate, (ABP 303467-19) and at the Blakes and Esmonde Motors Site, Lower Kilmacud Road, Stillorgan (ABP-300520-18).

## 17.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development, or as otherwise stipulated by conditions hereunder, and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.  
**Reason:** In the interest of clarity.

2. The proposed development hereby permitted shall only be occupied as student accommodation, in accordance with the definition of student accommodation provided for under section 13(d) of the Planning and Development (Housing) and Residential Tenancies Act 2016, as amended, and shall not be used for any other purpose without a prior grant of planning permission for change of use.

**Reason:** In the interest of residential amenity and to limit the scope of the proposed development to that for which the application was made.

3. The proposed development shall be implemented as follows:

(a) The student accommodation and complex shall be operated and managed in accordance with the measures indicated in the Student Accommodation Management Plan submitted with the application,

(b) Student House Units / Clusters shall not be amalgamated or combined.

**Reason:** In the interests of the amenities of occupiers of the units and surrounding properties.

4. The developer shall ensure that all construction methods and mitigation measures set out in the Ecological Impact Assessment are implemented in full, save as may be required by conditions set out below.

**Reason:** In the interest of protection of the environment

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

**Reason:** In the interest of visual amenity.

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

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

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

**Reason:** In the interest of urban legibility and to ensure the use of locally appropriate place names for new residential areas.

8. 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.

**Reason:** In the interests of visual and residential amenity.

9. Prior to the opening or 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 and staff employed in the development and to reduce and regulate the extent of parking. Details may

include the provision of centralised facilities within the commercial element of the development for bicycle parking, shower and changing facilities associated with the policies set out in the strategy. The interim or temporary strategy, where applicable, should reflect the requirements of Design Manual for Urban Roads and Streets 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.

**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.

10. Drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

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.

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 construction, shall be submitted to the planning authority for written agreement.

**Reason:** In the interest of public health and surface water management

11. 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.

**Reason:** In the interest of residential and visual amenity

12. 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.

**Reason:** To provide for the satisfactory future maintenance of this development in the interest of visual amenity

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

**Reason:** In the interest of public health.

14. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

15. 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.

**Reason:** In the interest of sustainable waste management.

16. 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 hours of working, noise management measures and off-site disposal of construction/demolition waste.

**Reason:** In the interests of public safety and residential amenity.

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

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

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

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the

Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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Elaine Power

Planning Inspector

13<sup>th</sup> May 2021