



An
Bord
Pleanála

Inspector's Report

ABP-309448-21

Development

Demolition of 2 dwellings and outbuildings; construction of 2 buildings accommodating 51 apartments, removal of north-western vehicular entrance and alterations to the north-eastern vehicular entrance and provision of 2 pedestrian entrances, provision of bicycle and car parking spaces, communal amenity space and landscaping.

Location

257-259 Mount Prospect Avenue,
Clontarf, Dublin 3

Planning Authority

Dublin City Council

Planning Authority Reg. Ref.

3740/20

Applicant(s)

JM Dunluce Ltd.

Type of Application

Permission

Planning Authority Decision

Spilt

Type of Appeal

First Party & Third Party

Appellant(s)	JM Dunluce Ltd. (First Party) Niamh and TJ Farrelly (Third Party)
Observer(s)	Fergal McNamara & Sinead Gargan Suzanne & Ross Young Tom Soye Colm & Ramona Kennedy Clontarf Residents Association Garrett & Mary McNamara Seán Haughey TD Cllr Deirdre Heney
Date of Site Inspection	10th June 2020
Inspector	Stephen Ward

1.0 Site Location and Description

- 1.1. The site, which has a stated area of 0.5816Ha, is located to the south west side of Mount Prospect Avenue, close to its junction with Clontarf Road (c. 65m to the southeast) and the adjoining Dublin Bay. On the opposite (northeast) side of Mount Prospect Avenue is St Anne's Park.
- 1.2. The north-western site boundary abuts the rear and side gardens of several properties within Ballymount Park and one property along Mount Prospect Avenue. The south-eastern boundary abuts a narrow lane which provides service access to the rear of a mixture of commercial / residential development along Clontarf Road. To the south and southwest, the site backs onto a terrace of dwellings along Clontarf Road and The Oaks estate, a small residential infill scheme that is accessed off Clontarf Road. The southwest boundary also adjoins the private access lane to Manresa Retreat House, which is located within large grounds to the west.
- 1.3. The site is occupied by two large, detached dwellings fronting onto Mount Prospect Avenue and their extensive garden areas. No. 257 is aligned with the building line along Mount Prospect Avenue to the northwest. It occupies a large site, much of it planted with Holm Oak trees to the rear. No. 259 is setback further from the public road (c.32m). It is a smaller site of more regular shape and is at a lower level than No. 257. Consistent with the surrounding area, site levels rise from east to west and there is a pronounced incline running through the middle of the site.
- 1.4. Development in the surrounding area is predominantly characterised by two storey residential development in the form of detached or semi-detached dwellings. There are commercial properties at ground floor level in the 3-storey mixed-use development to the southeast. Otherwise, the character of the area is dominated by St Anne's Park to the north and Dublin Bay to the east.

2.0 Proposed Development

- 2.1. Planning permission is sought for a residential development of 51 apartments contained in 2 separate blocks. In summary, the proposed development is comprised of the following:
 - Demolition of the 2 existing dwellings and outbuildings;

- Block A – 5 storey building with a setback penthouse level containing 31 apartments (7 no. 1-bed, 22 no. 2-bed, 2 no. 3-bed);
- Block B – 4 storey building containing 20 apartments (18 no. 2-bed, 2 no. 3-bed);
- Removal of the north-western vehicular entrance, alterations to the north eastern vehicular entrance, and provision of 2 pedestrian entrances;
- Bicycle parking and 52 no. car parking spaces;
- Communal amenity space and children's play area;
- Internal access roads, landscaping, tree removal and planting, boundary treatment, SuDS drainage and all ancillary works.

2.2. Foul water is to be connected to the existing 225mm diameter sewer in the adjoining estate known as 'The Oaks'. Stormwater from the buildings will drain to a soakaway on site and hardstanding areas will either be permeable or designed to run-off to landscaped areas. Water will be supplied via a nearby 150mm diameter mains and a Fire Hydrant will be incorporated.

2.3. Along with the standard drawings and information, the application included the following:

- Planning Report
- Tree Surveys and Reports
- Transportation Assessment Report
- Services Report and Drawings
- Landscaper's Drawings
- Outdoor Lighting Report and Drawing
- Daylight and Overshadowing Analysis
- Photomontage Images
- Bat Survey.

2.4. The First Party appeal includes an option for an amended design. The revision involves the relocation of Block B, a reduction in its footprint, and the omission of 2

apartments (1 no. 1-bed and 1 no. 2-bed), along with associated amendments to the site layout.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. By Order dated 19th January 2021, Dublin City Council (DCC) issued notification of a split decision. A decision to GRANT permission for Block A was issued, subject to 29 conditions. Notable conditions can be summarised as follows:

Condition 4: Block B shall be omitted and amended layout details agreed.

Condition 5: Details of amendments to Block A to be agreed, including setback of the penthouse level at least 2m from the NW gable elevation and screening proposals.

Condition 6: The development shall not be gated at its vehicular entrance.

Condition 8: Details of existing and proposed trees to be agreed.

Condition 12: Mitigation measures for bats to be agreed.

Condition 13: Access for badgers shall be maintained.

Condition 29: Details to be agreed regarding glazing, balconies and boundaries.

3.1.2. A decision was issued to REFUSE permission for Block B for the following reason:

Having regard to the standards set out in Sections 16.3 'Landscaping and 16.3.3 'Trees' of the 2016-2022 Dublin City Development Plan, it is considered that the extent of the loss of existing planting of mature trees, due to the works needed to enable the development of Block B in this instance primarily non-native Holm Oaks, would be excessive, and as such would seriously injure the visual amenities of the area contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planner's report is consistent with the decision of the planning authority and can be summarised as follows:

- DCC and ABP had no objection to the density of the previous application, which was slightly higher than the current proposal.
- With regard to 'Design & Integration', no significant objections are raised subject to amendments.
- The report refers to the concerns of the DCC Parks Department and the Biodiversity Officer, particularly in relation to the loss of trees and the loss of connectivity for bats and badgers between St Anne's Park and the Manresa House grounds.
- Concerns are raised about the northern outlook for some levels of Block B.
- It is preferable that children's play areas have good access to sunlight, but the proposed area appears to be sheltered under trees.
- Concerns are raised regarding the quality of private open space, some of which can be addressed by condition.
- Issues are raised in relation to sunlight and daylight. It is concluded that the omission of Block B would increase levels 'within and without' the site.
- Alterations to glazing, screening and boundaries are recommended to address overlooking concerns.
- A split decision was recommended to grant Block A and refuse Block B, which forms the basis of the DCC decision.

3.2.2. Other Technical Reports

- **Drainage Division:** No objections subject to conditions.
- **Transport Planning Division:** No objections subject to conditions.
- **Environmental Health Officer:** Conditions relating to air and noise quality are recommended.
- **Parks:** Objects to the development, primarily Block B and adjacent parking, due to its negative impact on the existing Holm Oak woodland. The Biodiversity Officer has concerns about the loss of connectivity for bats and badgers, which should be maintained under Article 10 of the Habitats Directive, and inadequate assessment has been submitted in this regard.

3.3. Prescribed Bodies

The Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media submission can be summarised as follows:

- Concerns are raised about the loss of the existing dwellings on grounds of architectural and cultural heritage, local character, and climate change.
- There may be potential hydrological pathways to Natura 2000 sites and AA Screening is required.
- Concerns are raised about the impact of tree loss on birds, bats and badgers.

3.4. Third Party Observations

A number of third-party submissions were received, which raised issues in relation to the following:

- Land ownership
- Inadequate drawings and details
- The planning history of the site
- Overdevelopment, excessive height and density
- Visual impact
- Overlooking, overshadowing, and overbearing of adjoining properties.
- Inadequate daylight and 'right to light' assessments.
- Light pollution and impacts on habitats.
- Concerns about impact on drainage and flooding.
- Potential anti-social impacts.
- Impacts on wildlife and protected species / habitats
- The impacts of the loss of Holm Oak trees
- Additional traffic impacts
- Inadequate architectural heritage impact assessment
- Inadequate 3-bedroom unit provision

- Concerns about the quality of aspect for units
- Inadequate proposals for landscaping, bin storage, and accessibility
- Inadequate childcare provision.

4.0 Planning History

ABP Ref 306314-20: Permission REFUSED on 1st September 2020 for development consisting of the demolition of 2 existing dwellings and the construction of 2 no. 5-storey (with setback penthouse) apartment blocks accommodating a total of 69 no. apartments and all associated works and services. The reasons for refusal were as follows:

1. *Having regard to the scale and massing of the proposed development, in particular Block B and its relationship with, and its proximity to, the adjoining two-storey terrace dwellings within The Oaks residential estate, it is considered that the proposed five/six storey apartment block would result in a significant loss of outlook for these adjoining properties and would appear overbearing when viewed from the rear private open space of these dwellings. The proposed development would therefore seriously injure the residential amenity of these properties and would be contrary to the provisions of the Dublin City Development Plan 2016-2022 and to the proper planning and sustainable development of the area.*
2. *The development proposed which provides for largely 3-bedroom two-bedroom apartment units would be contrary to the provisions of the ‘Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities’ issued by the Department of Housing, Planning and Local Government in March 2018, which requires that such units do not exceed 10% of the total number of units in any private residential scheme. The proposed development would, therefore, be contrary to provisions of the said guidelines, and to the proper planning and sustainable development of the area.*
3. *The Board is not satisfied on the basis of the information provided with the application and the appeal that the proposed development would not*

adversely affect Protected Bat Species and Bat habitat which has been recorded within the site. In such circumstances, the Board is precluded from granting permission.

4. *Having regard to the provisions of the Dublin City Development Plan 2016-2022 in particular Sections 16.3 'Landscaping' and 16.3.3 'Trees', it is considered that the extent of the loss of existing planting of mature trees, in this instance primarily Holm Oaks, would be excessive, and as such would seriously injure the visual amenities of the area and would be contrary to the proper planning and sustainable development of the area.*

5.0 Policy Context

5.1. National Policy / Guidance

5.1.1 The **National Planning Framework (NPF)** is the Government's high-level strategic plan for shaping the future growth and development of the country to the year 2040. A key element of the NPF is a commitment towards 'compact growth', which focuses on a more efficient use of land and resources through reusing previously developed or under-utilised land and buildings. It contains several policy objectives that articulate the delivery of compact urban growth as follows:

- NPO 3 (b) aims to deliver at least 50% of all new homes targeted for the five cities within their existing built-up footprints;
- NPO 4 promotes attractive, well-designed liveable communities;
- NPO 6 aims to regenerate cities with increased housing and employment;
- NPO 11 outlines a presumption in favour of development in existing settlements, subject to appropriate planning standards
- NPO 13 promotes a shift towards performance criteria in terms of standards for building height and car parking
- NPO 33 prioritises new homes that support sustainable development at an appropriate scale relative to location

5.1.2 Following the theme of 'compact urban growth' and NPO 13, the 2018 **Urban Development and Building Heights, Guidelines for Planning Authorities** (hereafter referred to as the 'Building Heights Guidelines') outlines the wider

strategic policy considerations and a performance-driven approach to secure the strategic objectives of the NPF.

5.1.3 **Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (DoEHLG, 2009)** sets out the key planning principles which should guide the assessment of planning applications for development in urban areas.

5.1.4 The 2020 **Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities** (hereafter referred to as the 'Apartment Guidelines') sets out the design parameters for apartments including locational consideration; apartment mix; internal dimensions and space; aspect; circulation; external amenity space; and car parking.

5.2. Development Plan

5.2.1 The site is zoned 'Z1 Sustainable Residential Neighbourhoods' in the Dublin City Development Plan 2016-2022, the objective for which is '*To protect, provide and improve residential amenities.*' Residential use is a 'Permissible Use' within this zoning objective.

5.2.2 Section 4.5.3.1 relates to urban density and promotes sustainable density, compact development, and the efficient use of urban land. Chapter 5 outlines the Council's approach to the provision of quality housing and encourages a good mix of house types and sizes with a satisfactory level of residential amenity.

5.2.3 Chapter 16 sets out detailed policies and standards in respect of development proposals within the city. Section 16.2 "Design, Principles & Standards" provides design principles outlining that development should respect and enhance its context.

5.2.4 Section 16.2.2.2 discusses 'Infill Development' i.e. gap sites within existing areas of established urban form. It is particularly important that such development respects and enhances its context and is well integrated with its surroundings, ensuring a more coherent cityscape.

5.2.5 Section 16.3.3 deals with 'existing trees and their protection' and highlights the importance and value of their consideration in the assessment of a planning application.

5.2.6 Section 16.7.2 includes height limits for development, including a 16m restriction for development in the Outer City and a 24m restriction for development within 500m of rail hubs.

5.2.7 Section 16.10.8 deals with 'Backland Development'. It states that the Council will allow for comprehensive backland development where the opportunity exists.

5.2.8 Chapter 10 deals with green infrastructure and highlights the importance of biodiversity and trees. It includes the following policies / objectives:

GI23: To protect flora, fauna and habitats

GI26: Conserve and enhance non-designated areas of ecological importance

GI27: Minimise the impact of external lighting at sensitive locations

GI28: To support the implementation of the Dublin City Tree Strategy

GIO27: Protect trees which function as wildlife corridors or 'stepping stones'.

5.3. **Natural Heritage Designations**

The nearest Natura 2000 sites are located c. 70m to the southeast of the appeal site. They are North Bull Island SPA (site code 004006) and North Dublin Bay SAC (site code 000206). There are several other Natura 2000 sites in excess of 1km from the appeal site.

5.4. **Preliminary Examination Screening for Environmental Impact Assessment**

5.4.1. An Environmental Impact Assessment (EIA) Screening Report was not submitted with the application. With regard to EIA thresholds, 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.)

5.4.2. It is proposed to construct a residential development containing 51 apartments. Therefore, the number of dwellings proposed is well below the threshold of 500

dwelling units. The site has an overall area of c. 0.5816 ha and is located within an existing built up area but not in a business district, and is, therefore, well below the applicable threshold of 10 ha.

- 5.4.3. The site is comprised of 2 existing dwellings, suburban gardens and woodland, and is largely surrounded by similar suburban housing development. The introduction of a residential development will not have an adverse impact in environmental terms on surrounding land uses. 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 European Site (as outlined in Section 8.0 of this Report). There is no hydrological connection present such as would give rise to significant impact on nearby water courses (whether linked to any European site or other sensitive receptors).
- 5.4.4. The proposed development would not give rise to waste, pollution or nuisances that differ from that arising from 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 Dublin City Council, upon which its effects would be minimal.
- 5.4.5. 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 'Z1 Sustainable Residential Neighbourhoods' and for 'Residential' uses under the provisions of the Dublin City Development Plan 2016-2022, and the results of the Strategic Environmental Assessment of the Dublin City 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 of the Planning and Development Regulations 2001 (as amended) and

the mitigation measures proposed to avoid significant effects by reason of 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),

I have 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 and that, on preliminary examination, an Environmental Impact Assessment Report (EIAR) or a determination in relation to the requirement for an EIAR was not necessary in this case (See Preliminary Examination EIAR Screening Form).

6.0 The Appeal

6.1. First Party Appeal

The applicant has appealed the decision to refuse permission for Block B. The grounds of appeal can be summarised as follows:

Revisions to the previous proposal (ABP Ref. 306314-20)

- The height of Block B has been reduced from 5&6-storeys to 3&4-storey and the separation distance from The Oaks has been increased from 2.5m to 6.18m.
- The mix of units has been revised to reduce the number of 2-bed (3 person) units to 6, which represents 11.7% of the total units.
- A Bat Fauna Assessment has been completed. While there is bat foraging activity and the proposal will result in the loss of potential roosting sites, there is no evidence of roosting in the buildings or trees on site. As such, there will be no significant negative impacts and mitigation measures will be incorporated, including those relating to lighting.

- The extent of woodland removal provides an appropriate balance between the efficient use of the site and the protection of visual amenity and the proposed development will provide an attractive aesthetic within all surrounding public realm areas.
- A Tree Survey and Arboricultural Report has been completed. Compared to the previous application, the current proposal retains additional trees, including additional Holm Oak trees.
- The application of the 'C' category grading to a significant number of trees is warranted due to poor maintenance and management.
- Incursions into the theoretical Root Protection Areas (RPAs) has been considered in the Arboricultural Report and it is not believed that this will cause the long-term decline of the relevant trees.
- Compensatory woodland planting is not necessary as the removal of trees will improve the retained woodland. Additional tree planting along the site boundaries will soften the visual impact.

Efficient Use of Serviced Land

- The proposal would be consistent with local and national policies which seek to encourage the more efficient use of underutilised sites within existing built-up areas in the interest of compact sustainable development.

Precedent

- The appeal suggests several precedents and contends that these ABP cases support the removal of a comparable extent of existing trees to facilitate the sustainable development of zoned serviced sites.

Amended Design Option

- Although the applicant expresses a preference for the design submitted with the application documents, the appeal includes an amended design option for Block B for the consideration of the Board if deemed necessary.
- The revised Block B is relocated northwards, has a reduced footprint of 52m², and omits 2 no. apartments. There are associated amendments to the site layout and additional trees will be retained.

6.2. Third Party Appeal

The decision to grant permission for Block A has been appealed by Niamh & TJ Farrelly of No. 255 Mount Prospect Avenue. The grounds of appeal can be summarised as follows:

- The reasons for the refusal of Block B apply equally to Block A.
- The density of the site should be adjusted to account for the existing woodland and include only land where development is viable and justified.
- It is surprising that a Conservation report was not required to assess the impact on St Anne's Park. This issue was raised in the submission by the Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media, along with other issues regarding the impact of the development on its setting.
- The DCC concerns regarding tree loss should be considered in light of climate change and biodiversity.
- The trees on the site were part of the original pathway around St Anne's estate and provide a canopy for many species of wildlife. Reference is made to a Bat and Badger survey undertaken for the Manresa House grounds as part of a previous application (P.A. Ref 3964/15). This report identifies the extent of wildlife in the area and refers to the means of access from Manresa to St Anne's Park via the woodland on the subject site, which must be protected in accordance with the EU Habitats Directive.
- Concerns are raised about the schedule of accommodation and the substandard provision of 'dual aspect' units.
- Concerns are raised about access to sunlight and daylight as a result of the retention of the woodland, the aspect of balconies in Block A, and the substandard design of Block B.
- Micro-climate has not been addressed, particularly the impact of the easterly wind on residents and wildlife.
- Windows and balconies in Block A will lead to overlooking of surrounding homes and gardens.
- Traffic issues are generally prevalent at weekends and a weekend traffic survey would be more appropriate in this case.

- The appeal queries the lack of Environmental Impact Assessment, Appropriate Assessment screening, and drainage information.

6.3. Applicant Response

Hughes Planning and Development Consultants have prepared a response to the grounds of appeal on behalf of the applicant. In addition to the grounds already set out in the First Party appeal, the response outlines the following:

- A previously prepared 'feasibility study' for the site provides no justification for restricting the potential density for the site.
- The application demonstrates compliance with the Apartment Guidelines on mix, unit sizes and accommodation standards.
- In accordance with the Apartment Guidelines, all north-facing single aspect units in Block A face towards St Anne's Park, a significant public amenity. The percentage of dual-aspect units proposed is appropriate for this location.
- The DCC Planner's report refers to a reasonable trade-off between retaining trees and the level of daylight and sunlight received by the apartments. The study submitted with the application confirms that all principal rooms pass the recommended ADF standards set out by BRE 209.
- The applicant is willing to comply with any necessary conditions to minimise impacts of wind.
- The windows on the western elevation of Block A will not overlook private amenity areas and screens will be provided to balconies.
- The critical assessment periods for traffic are the weekday peak hours. The proposal will have a negligible impact on traffic during weekends and the increase in parking provision is justified.
- A comprehensive Natura Impact Assessment Screening Statement was prepared for the previous application and was addressed in the Inspector's report. Appropriate regard has been shown for potential environmental impacts.

6.4. Planning Authority Response

None.

6.5. Observations

A total of 8 Observations were received from a combination of local residents, the Clontarf Residents Association, and elected representatives. The submissions largely support the grounds already set out in the Third-Party appeal, and raise the following additional issues:

- Validity and accuracy issues relating to the application drawings and documentation.
- The relationship and impact between the development and designated sites in Dublin Bay and the inadequate level of AA Screening.
- The relationship and impact between the development and Protected Structures and other architectural / conservation interests, including St Anne's Conservation Area.
- Inadequate assessment / classification of the woodland value as one entity and inadequate assessment of the impacts on the trees / woodland.
- Insufficient evidence in relation to flooding impacts.
- Overlooking, overshadowing and overbearing of surrounding properties, including those along Clontarf Road and the impacts on their development potential.
- The amended design option cannot be considered by the Board and contains inadequate parking proposals.
- Inadequate public transport services.
- Excessive height, scale, and overdevelopment of the site.
- Environmental and visual impacts on the Dublin Bay UNESCO Biosphere designation.
- Inadequate open space provision.
- The validity of the DCC split decision is questioned as it bypasses the public participation process.
- Groundworks may disturb the foundations of surrounding properties.
- The Development Plan requires that 15% of units should be 3-bed units.

- The conditions relating to previous permissions on the site are highlighted.
- Concerns about land ownership and boundaries are raised.
- The previous reasons for refusal have not been addressed.
- The applicant's suggested precedents for tree clearance are not relevant.
- Wildlife surveys have not been carried out at appropriate times.
- The proximity of tree canopies to the units is a fire risk.
- A Geotechnical Report is required to assess the impact on the trees and ground stability.
- Accessible car-parking spaces are inadequate and potentially dangerous.
- Part V proposals are unsuitable.
- The proposed design provides low-quality apartments and facilities. The approval for Block A on its own further compromises the design.

7.0 Assessment

7.1. Introduction

- 7.1.1. This case relates to both first-party and third-party appeals against the split decision of DCC to grant permission for Block A and refuse permission for Block B. While the appeals relate to different elements of the proposal, I propose to carry out a *de novo* assessment of the entire scheme on a themed basis.
- 7.1.2. All parties in this case have placed significant emphasis on the Board's previous decision to refuse permission on this site under Ref. No. 306314-20. Given the recency of this decision (1st September 2020) and the similarities with the current case, I will also refer to the previous case in the interest of consistency.
- 7.1.3. Having inspected the site and examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, and having regard to relevant local/national policies and guidance, I consider that the main issues in this appeal are as follows:

- The principle of development
- Visual Amenity and Heritage
- Quality and Amenity of the Proposed Development
- Impacts on surrounding properties
- Traffic and Transport
- Flooding and Drainage
- Tree Loss
- Biodiversity
- Appropriate Assessment

7.2. The principle of development

- 7.2.1. The proposal involves the demolition of two modern detached dwellings, which I do not consider to be of heritage value. And while I acknowledge the value of the reuse of existing buildings in the context of climate change and sustainable development, I consider that any concerns in this regard are balanced by the need to achieve more sustainable development through higher density on accessible brownfield sites like this one. Accordingly, I have no objection to the demolition of the existing buildings.
- 7.2.2. The proposal involves the construction of a residential development on lands zoned for residential use (Z1) in the Development Plan. Consistent with national policy and guidance, the Development Plan also seeks to encourage the development of underutilised lands in appropriate locations. The current low-density use of the site would be considered an under-utilisation. A total of 51 apartments is now proposed on a stated site area of 0.5816 hectares, resulting in a proposed density of c. 87 units per hectare. While it has been argued that the woodland area should be excluded in density calculation, I am satisfied that it should be included as a 'directly associated use' as is recommended for net density calculation in Appendix A of the 2009 guidelines on '*Sustainable Residential Development in Urban Areas*'. The blocks range from 3 to 6-stories, with a maximum height of c. 18.9 metres proposed.
- 7.2.3. The 2009 guidelines on 'Sustainable Residential Development' recommend that increased densities (minimum 50 per hectare) should be promoted within 500 metres

walking distance of a bus stop, or within 1km of a rail stop/station. SPPR 1 of the 2018 Building Height guidelines supports increased building height and density in locations with good transport accessibility and prohibits blanket numerical limitations on building height. It is also stated that suburban/edge locations can accommodate 4-storeys or more in appropriate circumstances, and SPPR 4 requires that development in such areas must secure the minimum densities set out in the 2009 guidelines and a greater mix of building heights and typologies. In accordance with Section 2 of the Apartment Guidelines, densities greater than 45 units per hectare are encouraged in 'Intermediate Urban Locations'.

- 7.2.4. The subject site is located within 500m of bus stops on the No. 130 service, which offers a reasonably frequent service with a minimum 15-minute peak hour frequency. There are also good cycling facilities along Clontarf Road. Having regard to the above, I consider that the site is suitable in principle for increased height and density in excess of 50 units per hectare. The suitability of the proposed height and scale will be assessed on the basis of impacts on visual amenity, heritage, residential amenity, and other issues discussed hereafter.

7.3. Visual Amenity and Heritage

- 7.3.1. It is contended by the appellants / observers that the proposed development will have a significant adverse impact on the existing visual amenity of the area. Concerns have been raised in relation to the visual setting of St. Anne's Park and Manresa House, the established pattern of development in the area, and the integration of the building with the existing low density two storey housing in the surrounding area.
- 7.3.2. I acknowledge that, with the exception of the higher-density 3-storey mixed-use development at the junction of Clontarf Road and Mount Pleasant Avenue, development in the area is mainly characterised by lower-density 2 storey dwellings. However, as outlined in section 7.2 above, I consider that the principle of increased density and height is acceptable at this location.
- 7.3.3. The Development Plan permits building heights up to 16 metres in such outer city areas and the maximum proposed heights are c. 18.9m (Block A) and c. 13.35m (Block B). However, the Building Height guidelines discourage the application of such height restrictions in favour of a performance-driven approach. With regard to

development in suburban/edge locations, section 3.6 of the guidelines states that 4-storeys or more can be accommodated alongside existing larger buildings, trees and parkland, river/sea frontage or along wider streets. While the maximum proposed height is 18.9m for Block A, it should be noted that the block height varies significantly and is less than 16.5m for the majority (c. 30m) of the overall length of the block (c. 46m). Furthermore, the upper level of the block is stepped back from the façade to reduce visual impact. Having regard to the above, I do not consider that this relatively minor exceedance of the Development Plan height limit would constitute a material contravention and I note that the Planning Authority has decided to grant permission for Block A.

- 7.3.4. The principle of building height exceeding that specified within the Development Plan is, therefore, accepted, but will be further examined in the context of the surrounding development and amenities. In that regard, the proposed development would have two principal impacts on the surrounding public realm. Firstly, the impact of Block A when viewed from the north-east along Mount Prospect and within St Anne's Park, and secondly, the impact of Blocks A & B, when viewed from the south-east along Clontarf Road and Dublin Bay.
- 7.3.5. I acknowledge the considerable amenity value of St Anne's Park, as well as its status as a Conservation Area containing several Protected Structures. However, I consider that the impacts of the development on the space are limited having regard to the developed nature of the site and the surrounding lands on the opposite side of Mount Prospect Avenue, as well as the significant separation distance between the site and the Protected Structures within the Park.
- 7.3.6. The design and scale of Block A is effectively the same as that proposed in the previous application. Consistent with the assessment of that proposal, I note that the front elevation of Block A proposes a living wall planted with trees and shrubs within its central recess, which softens the appearance of the building when viewed in the context of the adjacent park. Taken together with the recessed floors and balconies, this serves to successfully break up the overall massing and bulk of the building. Therefore, while Block A would certainly introduce a contemporary feature of larger scale, I consider that it can be accommodated within the existing streetscape and would not appear overly dominant when viewed in the context of surrounding development or St Anne's Park to the east. The quality of finishes and landscaping

to Block A will be key to its success and these details could be agreed by condition in the event of a grant of permission.

- 7.3.7. Similar to St Anne's Park, I also acknowledge the sensitivity of Dublin Bay (a UNESCO designated Biosphere) to the east and south. I also note that the Board's decision to refuse the previous proposal was partly based on concerns in relation to Block B and its relationship with The Oaks development (to the south) and existing development long Clontarf Road (to the east). The scale and massing of Block B, which was previously up to a 6-storey height, has been significantly reduced under the current proposal to 3 to 4-storey. I also note that the DCC decision to refuse this block relates to tree-loss rather than the visual impact of the block itself.
- 7.3.8. The applicant has presented photomontage images (views 3 to 7) showing the predicted visual impact of Blocks A & B when viewed from the east and south. Having regard to the significant reduction in the height and scale of Block B, I consider that it provides an appropriate visual transition from the immediately adjoining development to the south and east and I have no objections in this regard.
- 7.3.9. In the wider Dublin Bay context, the applicant's visual assessment has also considered distant views from Bull Island. I note that the proposed development will still be backdropped by a skyline of tree canopies on higher lands to the north and west of the site. The scale and massing of Block A will also be separated by the central 'living wall', which will help to integrate the proposed development with surrounding development. Accordingly, I consider that the proposed development can be successfully absorbed into the existing landscape and pattern of development, and that the visual impact of the development will be acceptable when viewed from the public realm areas to the south and east, including the environs of the Bay.
- 7.3.10. While this section has concentrated on the visual impact of the proposed apartment blocks, concerns have also been raised about the loss of trees and the subsequent impact on visual amenity, including the historical visual link that the trees form with St Anne's Estate and Manresa House. These matters are addressed further in Section 7.7 of this report.

7.4. Quality and Amenity value of the Proposed Development

Mix of Units

- 7.4.1. The application proposes 7 no. 1-beds, 40 no. 2-beds, and 4 no. 3-beds. The Apartment Guidelines discourage across-the-board specifications for the mix of units, particularly where a HNDA has not been completed. Therefore, in the absence of such a HNDA in the current Development Plan I do not propose to apply the Development Plan requirements for a minimum of 15% for 3+ bed units. The only specific requirement for unit-mix relevant to the current proposal is set out in SPPR 1 of the Apartment Guidelines, which states that developments may include up to 50% 1-bed units. Given that 1-bed units account for only 13.7% of the proposed units, I have no objection to the proposed mix of units.

Floor Areas

- 7.4.2. One of the reasons for refusal of the previous proposal related to an excessive proportion of smaller 2-bed (3-person) units. That proportion has effectively been reversed under the current proposal, whereby 36 of the 40 no. 2-bed units are 4-person units and only 6 are 3-person units. Sections 3.6 and 3.7 of the Apartment Guidelines allow for the consideration of these smaller 3-person units (minimum 63 m²) but recommend that this unit size should not account for more than 10% of the total no. of units. The 6 proposed 3-person units would account for 11.7% of the proposed units, which is a marginal exceedance of the 10% recommendation. However, I consider that the 10% recommendation is part of the advisory commentary contained in section 3.7 of the Guidelines, as opposed to the mandatory requirements contained in SPPR 3 itself. Given the marginal exceedance involved, and the fact that all 6 units in question are a minimum of 70m² and therefore significantly exceed the 63m² requirement, I would not consider that a refusal is warranted on these grounds.
- 7.4.3. All proposed units exceed the minimum overall apartment floor areas as set out in Appendix 1 of the Apartment Guidelines. Section 3.8 of the Guidelines requires that the majority of all apartments in any proposed scheme of 10 or more apartments shall exceed the minimum floor area standard for any combination of the relevant 1, 2 or 3 bedroom unit types, by a minimum of 10%. Having reviewed the proposed areas, I note that only 7 of the 51 units would not exceed this 10% target, and therefore 86% of the total apartments are compliant.

7.4.4. I have also reviewed the other requirements of Appendix 1 of the Apartment Guidelines for living/kitchen/dining areas, bedrooms, storage, and private amenity space. I am satisfied that the quantitative areas required for the individual units are satisfactorily provided in this case. However, with regard to private amenity space, I am concerned about the quality of the terrace spaces at first-floor level of Block B serving units 4 to 9. These spaces have a north-western aspect and face directly into a retaining wall (up to 2m+ in height), as well as the adjoining slope and trees at a higher level beyond. The outlook for these spaces is further compromised as they are covered by the external deck serving the second floor above. However, I consider that this matter could be satisfactorily addressed by relocating the living areas and adjoining private amenity spaces for this entire level (units 4 to 9) to the opposite (southeast) façade of Block B, consistent with arrangements of all other levels in this block.

Aspect

7.4.5. SPPR 4 of the Apartment Guidelines outlines that schemes in suburban or intermediate locations shall generally have a minimum of 50% dual aspect apartments. In Block B, I note that the 17 units above ground floor level are dual aspect. The Apartment Guidelines states that 3-bed units should be dual aspect and I consider that the 2 no. 3-bed units at ground floor level comply with this requirement, albeit with a limited second aspect by virtue of a small bedroom window. The central ground floor 2-bed unit is fully restricted to single aspect.

7.4.6. The appeal raises concerns about the extent of single aspect apartments in Block A, including contentions that opaque windows should not be included in this assessment. However, I consider that the Apartment Guidelines highlight the importance of dual aspect in terms of sunlight and cross-ventilation, and accordingly, I do not consider that opaque windows should be discounted simply on the basis that they are not transparent.

7.4.7. Block A includes 31 units, 16 of which are restricted to single aspect (7 of these units are north-facing). Section 3.18 of the Apartment Guidelines states that north facing single aspect apartments may be considered, where overlooking a significant amenity such as a public park. I consider that this applies in this case given that the units in question will overlook St Annes's Park.

7.4.8. Having regard to the above, I note that 34 of the 51 units (i.e. 66%) are dual aspect, which significantly exceeds the 50% requirement as per SPPR 4. Accordingly, I have no objection in this regard.

Daylight and Sunlight

7.4.9. The Development Plan encourages building layout and design which maximises daylight and states that development proposals should be guided by the principles of Site Layout Planning for Daylight and Sunlight, A guide to good practice (Building Research Establishment Report (BRE), 2011). Section 3.2 of the Building Height Guidelines (2018) also highlights the importance of sunlight and daylight and states that appropriate and reasonable regard should be taken of quantitative performance approaches to daylight provision outlined in guides like the BRE Guide or BS 8206-2: 2008 – ‘Lighting for Buildings – Part 2: Code of Practice for Daylighting’. It states that, where a proposal may not be able to fully meet all the requirements of the daylight provisions above, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, in respect of which the PA or ABP should apply their discretion, having regard to local factors including specific site constraints and the balancing of that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and / or an effective urban design and streetscape solution. The Apartments Guidelines (section 6.6) also state that regard should be had to these BRE or BS standards.

7.4.10. The ‘Daylight Analysis’ submitted with the application is based on the BRE guidance and specifically the recommended minimum values for average daylight factor (ADF) in dwellings, which are 2% for a kitchen, 1.5% for a living room, and 1% for bedrooms. Given that the kitchen/living rooms are combined in this case, the applicant has applied the higher ADF requirement of 2% for these spaces. The analysis outlines the ADF values calculated for all 150 habitable spaces within the proposed development and indicates that all proposed spaces exceed the minimum recommended values.

7.4.11. The third-party appeal has raised concerns that the daylight analysis has not appropriately considered obstructions to the rear of Blocks A and B, including site

levels, trees, and various projecting features on the external envelope of the buildings.

- 7.4.12. I have considered the reports submitted by the applicant and have had regard to the BRE and BS (2008) documents referenced in Section 28 Ministerial Guidelines. I would highlight that the standards described in the BRE guidelines are discretionary and not mandatory policy/criteria. The BRE guidelines also state in paragraph 1.6 that *'Although it gives numerical guidelines, these should be interpreted flexibly since natural lighting is only one of many factors in site layout design'*. The BRE Guide notes that other factors that influence layout include considerations of privacy, security, access, enclosure, microclimate etc., and states that industry professionals would need to consider various factors in determining an acceptable layout, including orientation, efficient use of land and arrangement of open space, and these factors will vary from urban locations to more suburban ones. I note that the BS (2008) document has been replaced by the updated British Standard (BS EN 17037:2018 'Daylight in buildings') and I do not consider that this would have any material bearing on the analysis submitted. I have carried out a site inspection and had regard to the interface between the proposed development and its surroundings, as well as the third-party submissions which have raised concerns in relation to daylight and sunlight.
- 7.4.13. In response to the third-party concerns, I note that Appendix H of the BRE guidance deals with the issue of trees. It states that very little light can penetrate dense belts of evergreen trees, and the shade they cause will be like that of a building or wall. However, while the trees in this case are 'evergreen', it must be highlighted that they do not include the type of dense foliage of typical conifers. Foliage is largely limited to the upper levels of the trees and the canopy/crown levels facilitate a much higher level of light penetration compared to typical conifers.
- 7.4.14. According to the branch spread details and reports provided with the application, only a limited number of apartment living areas will be in close proximity to retained trees (i.e. only unit no.'s 1, 2, 8, 9, 16, 17, 24 and 25 (Block A), and unit no's 8 & 9 (Block B) would be less than 5 metres). I acknowledge that the applicant has not specifically stated that the 'Daylight Analysis' has accounted for the impact of the trees and other projecting elements such as balconies, but I would expect that this would be taken into consideration by a competent professional. It should also be

acknowledged that the applicant has applied the higher ADF threshold of 2% for combined kitchen / living / dining areas (the lower 'living area' threshold of 1.5% is commonly accepted) and the vast majority of values significantly exceed 2%. Similarly, the values for the bedroom areas generally significantly exceed the 1% value. Only 11 of the 51 K/L/D areas achieved a value of less than 3%. And with regard to the specific units identified earlier in this paragraph (i.e. those close to trees), the average ADF value for those living areas is 3.3%, with units 8 & 9 in Block B having lower values at 2.1% and 2.5% respectively. However, as previously outlined in section 7.4.4 of this report, I consider that the living / private amenity space for units 8 & 9 should be relocated to the opposite (southeast) façade and this will significantly improve daylight arrangements for these units.

- 7.4.15. Ultimately, I note that mandatory application of the BRE standards is not required by the Development Plan or ministerial Guidelines (the Apartment Guidelines and Building Height Guidelines). Consistent with that approach, the BRE Guide itself highlights the need for flexible interpretation in the context of many other design factors. The application has demonstrated that all proposed spaces exceed the required standards, and significantly so in the vast majority of cases. While the appeal has raised concerns in relation to the scope of the applicant's daylight analysis, I consider that only a limited number of spaces would potentially be affected by any additional obstruction due to tree proximity etc., and that the high values recorded in the applicant's analysis will provide sufficient comfort to absorb any additional impacts and maintain satisfactory daylight levels. Furthermore, I consider that regard must be had to the nature and context of the site, and that the redevelopment of the site, while retaining an appropriate extent of vegetation, would be in accordance with the proper planning and development of the area as outlined throughout this report. I am satisfied that the retention of the woodland character would provide a significant amenity value that would satisfactorily compensate for any likely loss of daylight caused by the trees. Accordingly, I have no objection in relation to the daylight availability to the proposed units.

Open Space

- 7.4.16. All proposed units will be provided with private amenity spaces which comply with the minimum area requirements as per the Apartment Guidelines. The spaces are at least 1.5m deep and are suitably accessed off the main living areas. As previously

outlined in section 7.4.4, my concerns in relation to the quality of spaces serving units 4 to 9 of Block B can be addressed through a relocation of the living and amenity spaces to create balconies off the southeast façade.

7.4.17. In accordance with the Apartment Guidelines, the proposed development requires a total of communal open space area of 347m². The application states that an area of 2,131m² has been provided in the form of the retained woodland area. A landscape design has been submitted for the area, which includes a children's play area between Blocks A and B with safety grass surfaces and several play installations. The remainder of the woodland area will have a pathway installed, along with associated plating and seating.

7.4.18. In addition to the quantitative requirements, the Apartment Guidelines highlight the importance of providing well-designed communal outdoor space that is accessible, secure and usable. For schemes of 25+ units with two or more bedrooms, the Guidelines recommend that small play spaces (about 85 – 100 sq. metres) be provided for the specific needs of toddlers and children up to the age of six, with suitable play equipment, seating for parents/guardians, and within sight of the apartment building. In this instance I am satisfied that the space between Blocks A and B satisfies this requirement. I note that concerns were raised by the Inspector in the previous case regarding accessibility to the play areas. The current proposal has been redesigned to provide improved access from both blocks and I would have no objection in this regard.

7.4.19. The proposed quantity of open space is clearly well in excess of requirements. I acknowledge that this proposed woodland area would not be a typical communal space for a residential development, and that there would be some limitations associated with a semi-natural space such as this, including surveillance, sunlight/daylight, and challenges associated with levels and surfaces. With regard to sunlight, the BRE guidance recommends that at least 50% of the amenity areas should receive a minimum of two hours sunlight on 21st March (spring equinox). The application does not include a specific assessment in this regard but given the density of canopy coverage and its evergreen nature, it is reasonable to conclude that the standard would not be met.

7.4.20. On balance, however, and being conscious of discretionary nature of the BRE recommendation and the desirability of retaining the existing trees, I consider that the retention of this woodland character and the provision of walkways and play areas would provide a large high-quality communal amenity space in an attractive natural environment, which would adequately compensate for deficiencies outlined above. And while it may not be necessarily conducive to the recreational needs of all, the proximity of the site to St Anne's Park and the coast provides ample and convenient alternatives for amenity and recreation. Therefore, I would have no objection to the communal amenity space proposals.

7.4.21. In addition to the foregoing, the Development Plan requires a provision of 10% of the site area as accessible public open space, or otherwise a payment in lieu of such provision. The developer has proposed to make a payment in lieu of this lack of public open space. Given the location of the site directly adjacent to St. Anne's Park I would consider this proposal to be acceptable. I note that the DCC Development Contribution Scheme already covers the requirement for a contribution of €4,000 per unit in such cases and, accordingly, section 48 (2)(c) of the Act need not apply.

Conclusion on the quality and amenity of the proposed units

7.4.22. Having regard to the above, including the suggested amendments to the arrangement of units 4 to 9 in Block B, I am satisfied that the proposed development provides a suitable standard of accommodation for the prospective occupants. While the third-party concerns are noted, I consider that the application has demonstrated a high level of amenity value, including daylight, and I am satisfied that any potential additional daylight impacts relating to the existing trees would affect only a limited number of spaces and would not be to an unacceptable extent. The retention of the trees is desirable from a visual, wildlife, and sustainability perspective, and will add significantly to the character and attractiveness of the development. Furthermore, I consider that the size, quality and attractiveness of the proposed woodland open space will satisfactorily compensate for any potential loss of sunlight/daylight to the area itself and/or individual apartments.

7.5. Impacts on surrounding properties

7.5.1. It is contended within the third-party appeal and observations received that the proposed development would give rise to adverse impacts on surrounding properties

by reason of overlooking, overshadowing and overbearing. The properties of concern include those within The Oaks to the south, Baymount Park to the northwest, existing dwellings along Mount Prospect Avenue, and properties along Clontarf Road to the southeast.

Overlooking

- 7.5.2. It is noted that Block A respects the established building line along Mount Prospect Avenue and extends c. 5 metres beyond the rear building line. Windows within the north western elevation are to be installed with opaque glazing to prevent overlooking. Corner balconies and terraces at the northwest end of Block A can also be fitted with 1.8-metre-high privacy screens in order to prevent any direct overlooking to neighbouring properties. The southeastern elevation of Block A contains similar arrangements of opaque glazing with stepped back upper levels, but I am satisfied that no significant overlooking concerns apply at this point.
- 7.5.3. Having regard to the foregoing I consider that Block A will not give rise to significant levels of overlooking and I am satisfied that measures can be put in place to sufficiently mitigate the potential for loss of privacy to existing established residential properties in the area.
- 7.5.4. Block B is to be positioned to the rear of Block A and given the change in levels on the site, will be significantly lower than existing properties located along Baymount Park to the northwest. The proposed rear elevation of Block B will also be screened by the proposed woodland area and is set back from dwellings within Baymount Park by a distance of c. 60 metres (c. 20m to the garden boundary). Given the significant separation distances and screening provided in this instance I do not consider that there will be any significant loss of privacy to dwellings within Baymount Park.
- 7.5.5. The southwest side elevation of Block B does not include any windows facing onto The Oaks. Furthermore, I do not consider that any balconies or terraces associated with Block B would overlook the private areas within The Oaks. Accordingly, I am satisfied that there will be no significant adverse impacts on these properties.
- 7.5.6. Block B will be located c. 38 metres from the rear of dwellings along the Clontarf road (c. 16-23m from the garden boundaries). These properties are two-storey in height and are at a lower level than the appeal site. A service lane is present to the rear of some of these dwellings and some rear garden areas have been developed

with sheds and mature vegetation etc. While some extent of overlooking of the Clontarf Road properties will be inevitable, I am satisfied, having regard to the urban context of the site and the significant separation distances involved, that the proposed development will not seriously detract from the privacy and amenities of these properties.

Daylight and Sunlight

- 7.5.7. I have considered the reports submitted by the applicant and have had regard to the BRE and BS (2008) documents referenced in Section 28 Ministerial Guidelines, while noting that the BS (2008) document has been replaced by the updated British Standard (BS EN 17037:2018 'Daylight in buildings'). I have carried out a site inspection and had regard to the interface between the proposed development and its surroundings, as well as the third-party submissions which have raised concerns in relation to daylight and sunlight.
- 7.5.8. The applicant has submitted a shadow analysis for the proposed development and its impact on neighbouring spaces at 3 times of the day (10am, 12pm & 2pm) for 4 days of the year (21st of March, June, September & December). It demonstrates that Blocks A and B will give rise to some limited overshadowing of properties to the northwest along Mount Prospect Avenue and within Baymount Park but concludes that the proposed development will not have an overly negative effect on the neighbouring amenity spaces.
- 7.5.9. The BRE guidance states that obstruction to *sunlight* for existing dwellings with a living room window facing within 90° of due south and the new development subtends to an angle greater than 25° measured perpendicular from the lowest window to a main living room. Any such windows should receive at least 25% of annual probable sunlight hours (APSH), including in the winter months at least 5% of APSH. If the available sunlight hours are both less than these amounts and less than 0.8 times either former value, or if the overall loss of annual sunlight is greater than 4% of APSH, the existing dwellings will be adversely affected.
- 7.5.10. I note the BRE guidance in relation to orientation, separation distance and angles of obstruction between existing and proposed development. The rear of the properties along Mount Prospect Avenue face southwest but do not directly face the proposed development, and I note that there are no main living room windows in the side

elevation of no. 255. The Mount Prospect properties are a significant distance from Block B (at least 35m) and have only an acute angle of interface with Block A. The rear of properties in Baymount Park face southeast directly towards the proposed development, but at a higher level and a significant separation distance (c. 60m), resulting in an angle of obstruction that would be less than 25°. Other surrounding dwellings are located to the southeast (Clontarf Road) and southwest (The Oaks) of the proposed development and are unlikely to be significantly affected by overshadowing due to those locations to the south of the development and the east-west pathway of the sun. Given the separation distances, building height, angles and orientations involved, I consider it unlikely that that the proposed development would result in significant loss of sunlight for the existing buildings in the area. This view has been supported by the applicant's shadow analysis, which demonstrates that any impacts will be for limited durations and frequency. Furthermore, it is apparent that the majority of any overshadowing impacts would already exist as a result of the dense tree coverage on site, and I do not consider that the proposed development would significantly exacerbate this situation.

- 7.5.11. BRE guidance states that at least 50% of existing gardens/open spaces should retain at least 2 hours of sunlight on 21 March and that, where existing gardens are already heavily obstructed, any area which can receive 2 hours of sunlight on 21 March should not be reduced to less than 0.8 times its former size. For the reasons already discussed in section 7.5.10 above, I do not consider it likely that the proposed development would result in an exceedance of the recommended standards as per BRE guidance.
- 7.5.12. Section 2.2 of the BRE guidance acknowledges the importance of safeguarding *daylight* to nearby buildings and states that they may be affected if the new development extends to an angle greater than 25° measured perpendicular from the centre of the lowest window. Daylight is likely to be adversely affected if the VSC (Vertical Sky Component) is less than 27% and less than 0.8 times its former value, or if the area of the working plane in a room which can receive direct skylight is reduced to less than 0.8 times its former value.
- 7.5.13. Again, I note that the front/rear elevations of the properties in Mount Prospect and The Oaks do not directly face the proposed development, and that there are no significant windows in the side elevations of these properties either. Furthermore, the

Baymount Park properties are significantly distanced (c. 60m) and at a raised level compared to the application site. Having regard to the above and the fact that the existing trees would provide a significant buffer between the proposed development, I do not consider that daylight to the above properties is likely to be significantly affected.

- 7.5.14. Although specific details are not provided in relation to the Clontarf Road properties, I have estimated that the rear ground floor windows facing the proposed development should be assessed at a level of c. 4.5m OD. Block B is separated from these windows by a distance of c. 37.5m and rises to a maximum height of 17.35m OD, resulting in an estimated angle of obstruction of c. 19°, which, according to BRE guidance, is unlikely to impact on daylight. The angle of obstruction to the maximum roof height of Block A (at a distance of 37m and a level of 22.9m OD) is estimated to be c. 26°, which marginally exceeds the BRE recommended threshold (25°) to require more detailed assessment. However, given its marginal exceedance, and the fact that the opposing interface with Block A extends to a width of only c. 10 metres, I do not consider it likely that there would be significant daylight effects on the Clontarf Road properties as a result of Block A.

Overbearance

- 7.5.15. *Overbearing* impacts are mainly derived from the relationship between the height / scale of a development and its separation distance from adjoining properties. In this regard I note that the properties within Baymount Park are significantly separated and screened by the existing trees. The properties to the northwest along Mount Prospect Avenue are on higher ground and are separated from Block A by at least 5 metres, with upper floor level being setback further. I feel that this provides an appropriate transition from the existing properties and would not be unacceptably overbearing.
- 7.5.16. I note that the Board's decision to refuse the previous proposal was partly based on the overbearing impacts of Block B in relation to The Oaks properties to the southwest and the properties along Clontarf Road to the southeast. However, the current proposal has significantly reduced the height and scale of Block B to provide a more appropriate relationship with those surrounding properties. Having regard to

the height of Block B and its separation distance from the surrounding properties, I do not consider that it would have any unacceptable overbearing impacts.

Conclusion on surrounding properties

7.5.17. The potential impacts of the proposed development on the residential amenities of surrounding properties have been outlined above. While I would accept that the relationship between the site and surrounding properties will be altered as a result of a higher density development and the removal of trees, I do not consider that the proposed development will result in any unacceptable impacts. Any additional disturbance caused at construction or operational stage would be considered an unavoidable standard feature of urban development and I would have no objection in this regard. It is important to acknowledge the urban context of the site and that infill development at locations such as this support the concept of compact growth as set out in the policies of the National Planning Framework. In order to deliver on the NPF objectives, increased flexibility is required in such circumstances and I consider that the impacts of the development would be acceptable in this context.

7.6. Traffic and Transport

7.6.1. The appeal raises concerns about the impact of the proposed development on local traffic conditions, particularly at weekends. The applicants have submitted a Transportation Assessment Report with the planning application. Traffic levels are indicated as low during the weekdays. However, it is acknowledged that weekends activities within St. Annes park can give rise to an increase in traffic levels. In accordance with TII Assessment Guidelines the critical assessment periods are the weekdays AM and PM commuter peak hours. Capacity modelling has been undertaken and it is stated that at the time of the study there were no significant developments which would affect the study area.

7.6.2. Traffic modelling was carried out and it is estimated that the proposed development will have less than a 1% increase in traffic flow on the adjoining roads at peak times, which is well below the industry standard for further assessment (5%). Junction capacity modelling has also been completed and it is predicted that the ratio to flow capacity will be well below the theoretical capacity of 0.85 and no queuing is anticipated. The applicant's assessment concludes that the proposed development will have a negligible impact on the capacity and safety of the road network.

- 7.6.3. In accordance with Development Plan requirements, the proposed 51 units would have a maximum car-parking allowance of 77 no. spaces. The proposed development complies with this by providing a total of 52 spaces and allowing for 'club spaces' and electric vehicles. In accordance with the policies of the Apartments Guidelines, which encourage a reduced provision of car-parking, together with the public transport and cycling infrastructure in the area, I consider that the car-parking provision is appropriate in this case. It is proposed to provide a total of 125 bicycle parking spaces, which meets the requirements of the Apartments Guidelines (i.e. 1 space per bedroom, plus 1 visitor space per 2 units (124 spaces)) and significantly exceeds those of the Development Plan (i.e. 1 space per unit (51 spaces)).
- 7.6.4. Having regard to the above, I am satisfied that the proposed development has been assessed for the critical commuter periods in accordance with TII Guidance and can be adequately catered for in terms of vehicular access and car parking, and that it makes appropriate provision for other sustainable forms of transport. It has been designed in accordance with the requirements of the Development Plan and national guidance and the proposed development will not interfere with the safety and free flow of traffic at this location.

7.7. Flooding and Drainage

- 7.7.1. A site-specific flood risk assessment was prepared as part of the previous application on the site. Having regard to the information submitted, the Inspector considered that the risk of the proposed development being impacted by flooding was low, and that the proposal would not exacerbate flood levels downstream or within the surrounding area. The Board's decision did not raise any objections in this regard.
- 7.7.2. The current application does not include a flood risk assessment. A 'Services Report' indicates that stormwater from the proposed buildings will drain to a soakaway which has been designed to accommodate the roof areas and climate change variations of 10%. It is stated that there is up to 40% additional capacity in the design. It is indicated that the existing roof areas drain to a combined sewer and that there will be a significant reduction in run-off as a result of the proposed development.
- 7.7.3. Hardstanding areas will be permeable or will run-off to landscaped areas. It is stated that the infiltration rate from the percolation tests indicates that the proposed

attenuation from the permeable paving is sufficient. A connection to the storm sewer is not required, but has been included, and this line can be flow controlled or omitted if required.

7.7.4. I note that the OPW flood mapping for the area indicates no fluvial, coastal or groundwater flood risk within the site boundary. The Development Plan SFRA maps indicate a moderate risk of pluvial flooding within a southern portion of the site, and this would be considered the primary flood risk to the proposed development.

7.7.5. However, the proposed development will incorporate an appropriately designed and constructed storm water management system in the form of a soakaway. This system will attenuate and discharge storm-water run-off from the development site to existing greenfield runoff rates. The development is therefore not expected to increase pluvial floods risk within the site or elsewhere. I note that DCC Drainage Division had no objection in relation to surface water proposals, subject to conditions, and I am satisfied that there are no unacceptable risks in this regard.

7.8. Tree Loss

7.8.1. The application includes an Arboricultural Report which outlines that the site was surveyed in December 2018. Of the 128 survey entries, 16 trees were assessed as being of moderate quality (B Category), 103 were assessed as being of low quality (C Category), and 9 trees were assessed as being of poor quality (U Category). No high-quality trees (A Category) were recorded. The diversity of species was assessed as 'poor' given that Holm Oak make up 68% of those recorded.

7.8.2. A total of 64 entries are to be removed, including 43 individual trees; 11 groups of trees / hedgerows or shrubs; and 10 trees for reasons of poor health and condition. Of those 64 removals, only 3 trees are B Category, 51 trees/groups are C Category, and 10 trees are U Category. Immediate and ongoing pruning works are proposed to maintain an adequate separation distance from buildings and above areas of open space. Tree protection measures are also outlined for the construction period, including the protection of tree roots under aboricultural supervision. Pruning will ensure that the trees will be at least 2 metres from the proposed buildings.

7.8.3. The report concludes that the majority of tree removals are of low and poor quality/value; that the report has been prepared in accordance with best practice BS 5837:2012; that the trees to be retained can be successfully protected; and that the

development will not have a negative impact on the character or appearance of the surrounding landscape.

- 7.8.4. The DCC reports highlight the value of the mature woodland on the site formed primarily of Holm Oak and the tree retention policies of the Planning Authority. It contends that the importance and quality of the trees has been understated and highlights its value in terms of amenity, wildlife, and historical association with surrounding heritage assets. Concerns are also raised about impacts on roots, compensatory measures, and daylight/shadow impacts on external amenity areas. The third-party appeal and observations raise similar concerns in this regard.
- 7.8.5. The first-party appeal outlines a comparison between the previous application and the current proposal. Of the total trees on site (114), it is stated that 61 (53.5%) will now be retained, compared to 43 (or 38%) in the previous proposal. With regard to the Holm Oak trees (87), it is stated that 54 (62%) will now be retained, compared to 39 (or 45%) in the previous proposal. Of those 33 Holm Oaks proposed for removal, 8 are being removed due to arboricultural reasons, meaning that only 25 (or 28%) are being removed to facilitate the development. It contends that the retained trees will continue to have a significant impact on the visual amenity of the area.
- 7.8.6. The first-party appeal also includes a response from the Arboricultural Consultant. The response refutes the DCC contentions that the woodland value has been understated and highlights a lack of appropriate management and the age of the trees. It contends that the tree loss will not have a significant impact on views and skyline, and that impacts in this regard are largely due to the screening caused by Block A rather than actual tree loss associated with Block B. It is stated that the largest of the 6 incursions into root protection areas (RPAs) will be in the order of 22%, with all others not exceeding 12%, which is not expected to cause long-term decline.
- 7.8.7. In relation to RPA incursion, I note that BS 5837 (2012) outlines a default position that new structures should be outside the RPA, but also that section 7 of the document outlines methodologies for the protection of roots, including excavation and subterranean construction. Having regard to the minimal incursion proposed into the RPAs, together with the proposed arboricultural methodologies and supervision

under the provisions of BS 5837, I am satisfied that the tree protection proposals are reasonable and achievable.

- 7.8.8. I acknowledge the concerns that have been raised about the impact of tree loss on the amenity and heritage of the area, as well as the environmental importance of tree retention as set out in the Development Plan. In this regard my assessment will largely concentrate on the Holm Oak woodland to the rear of the site, which is the particular interest in this case.
- 7.8.9. In considering the contribution of the trees to amenity value and character of the area, I note that the site is in private ownership and is largely bounded by private properties. The majority of woodland trees to be removed are centrally located within the site and are largely screened by surrounding development, which limits their contribution to the public realm. The trees to be removed are also largely located on the mid-to-lower levels of the site, while the trees to be retained will be located on the highest part of the site along the northwest site boundary.
- 7.8.10. The woodland is currently most visible from Mount prospect Avenue and St Anne's Park to the northeast. However, I would accept the applicant's point that the visual impact from this direction will be as a result of the physical screening associated with the construction of Block A, rather than any actual tree loss. Otherwise, and notwithstanding uncertainties about the viability of retaining some trees, I consider that any visual impact as a result of tree loss would not be seriously injurious when viewed from the limited public viewpoints to the northwest, southwest and southeast of the site. I also note that it is proposed to plant 22 no. new trees which will help to soften the visual impact of the development.
- 7.8.11. I acknowledge that the loss of the trees will have an impact on the woodland outlook currently enjoyed by residential properties to the southeast and southwest of the site. However, I do not consider that residents are entitled to the protection of a view from private properties or that the tree removal proposed would be seriously injurious to the amenities of those properties. Accordingly, I consider it unreasonable to expect the retention of the trees on the grounds of residential amenity.
- 7.8.12. In the wider context, I acknowledge the contentions regarding the previous association between the site and the St Anne's / Manresa House curtilage. While I accept that the trees have a certain historical value, it must also be acknowledged

that the relationship between the site and St Anne's / Manresa has been significantly fragmented through development over the years. Nonetheless, I again note that it is proposed to retain a significant extent of the Holm Oak trees, the majority of which are at the most elevated and prominent parts of the site. Accordingly, I am satisfied that the proposed development would adequately retain the historical association between the trees on site and the surrounding heritage assets.

7.8.13. In addition to visual amenity and heritage issues, it is acknowledged that trees play an important role in respect of sustainable development and climate change.

However, I consider that a balance must be struck between the retention of trees and the appropriate redevelopment of serviced sites. Some extent of tree loss is inevitable if the effective use of the site is to be realised, and I consider that any negative impacts associated with sustainability and climate change could be appropriately balanced by the proposed new planting and the more sustainable use of the site as a form of higher density compact development. Therefore, I would not consider that refusal is warranted in this regard alone.

7.8.14. In conclusion with regard to tree loss, I am satisfied that the development would retain a strong woodland character on the site, particularly at the most elevated levels where the trees will maintain a backdrop / skyline to the proposed development. While I acknowledge that the Board's previous decision raised visual amenity concerns, it should be noted that the current proposal involves additional tree retention, particularly in the area between Blocks A & B which would help to soften the impact of the development. Together with the proposed new planting, I consider that the proposed development would successfully mitigate impacts on visual amenity, heritage and climate change, and I have no objection in these respects. The impact of tree loss on biodiversity is addressed separately below.

7.9. **Biodiversity**

Bats

7.9.1. The application includes a 'Bat fauna assessment' report, which presents the results of a site survey of 26th September 2020 which included inspection of buildings / trees and a bat detector survey at dusk. The assessment acknowledges that the buildings have roosting potential, but no evidence of bat presence was found. Any trees to be removed with more than 'low bat roosting potential' were assessed and no roosts

were present. The detector survey noted foraging activity by a single *Soprano Pipistrelle*.

- 7.9.2. The report states that the development would not result in a loss of definite roosting habitat but that there is potential for lighting to impact on foraging activity. Mitigation measures will include compliance with bat lighting guidance, a pre-construction roosting assessment, and the provision of bat boxes. It concludes that the development will not have a significant residual negative impact on the bat population.
- 7.9.3. The Planning Authority's Biodiversity Officer highlighted the connectivity importance of the site between Manresa and St Anne's Park for bats. They state that there is an obligation to maintain such connectivity under Article 10 of the Habitats Directive and adequate assessment has not been demonstrated in this regard. However, the Planning Authority, in their decision to grant Block A, considered that subject to mitigation measures being put in place (condition 12), that this matter could be adequately addressed. The third-party appeal and observations raise similar concerns relating to biodiversity.
- 7.9.4. I have reviewed the 'Bat and Badger Survey Report' referred to in the third-party appeal regarding a previous application (P.A. Ref. 3964/15) on the adjoining Manresa site and also that submitted in respect of ABP-306140-20, and I note that the findings indicate potential connectivity with the appeal site.
- 7.9.5. Having reviewed the 'Bat Mitigation Guidelines for Ireland' (NPWS 2006), it states that the importance of a thorough site survey cannot be over-emphasised. Of relevance to the current appeal case, I also note the following best practice guidance:
- Because tree-dwelling bats move roosts frequently, a single bat-detector survey is unlikely to provide adequate evidence of the absence of bats in trees that contain a variety of suitable roosting places. Several dawn or dusk surveys spread over a period of several weeks from June to August will greatly increase the probability of detecting significant maternity roosts and is recommended where development proposals involve loss of multiple trees.
 - Bat detectors may be used for an emergence survey at an appropriate time of the year, but the nomadic nature of tree-dwelling bats means that the success

rate is likely to be very low. Detector surveys at dawn have a slightly higher chance of success.

- It is extremely difficult to survey trees and be certain that any bat roosts have been detected. The best time to carry out surveys for suitable cavities is between November and April.

7.9.6. Appendix 1 of the Guidelines contains a 'Bat Species and Habitat Survey Timetable'. For habitats and species relevant to the subject site, I note that:

- The survey was carried out at the extreme end of the survey period for 'woodland' (Mar-Sept) and was not within the optimum months (June-Aug). Two woodland surveys would also have been preferable.
- When surveying individual trees, two surveys are recommended for the Common Pipistrelle and Soprano Pipistrelle, while 4 surveys are recommended for the Leisler's species.
- When surveying houses, 4 surveys are recommended for all species.

7.9.7. I note, in respect of the previous application/appeal (ABP 306314-20), that the bat survey submitted was carried out over one night on the 29th August, 2019. It is stated within that report that some trees have a moderate to high potential for bat usage due to deep crevices. Bats were observed foraging within the gardens and along the treeline. Species identified as feeding and commuting on the site/within the immediate environs were noted as Soprano pipistrelle and Leisler's Bat. The Board at that time considered that further bat survey information was required (as per refusal reason no.3).

7.9.8. While I note that in respect of this application/appeal, only one survey was carried out in this case on 26th September 2020, at dusk, the survey submitted with this appeal represents the second survey date on site (the first being August 2019, undertaken by two surveyors at that time). As the survey submitted with this application notes results of the previous, I consider it appropriate to have regard to this fact. In both surveys, all buildings, including garden sheds were surveyed (in the first survey by two surveyors and by one in the second survey), including all 7 attic spaces in the two buildings.

- 7.9.9. I would draw the Board's attention to the conclusion of the applicant's assessment, i.e. '*that the development would not result in a loss of definite roosting habitat*', and while I accept that a more definite conclusion in respect of the 'potential' roosting habitats may be ideal and in line with best practice, as noted in the Guidelines, this is likely to prove very challenging for tree roosts in particular and especially so where bat populations are low.
- 7.9.10. In response to the observers and biodiversity officer's concerns, it is acknowledged that there is potential for bat roosting in these buildings although this was not evident. Additional surveys (which would have typically measured activity/population) are not considered to be critical and the lack of further surveys is not considered to have a material bearing on my assessment. I am satisfied that the two survey results are sufficient to allow the Board to conclude that there is no definitive bat roosting activity in the buildings.
- 7.9.11. In respect of trees surveys, it is acknowledged in the Guidelines, that because of the nomadic nature of tree-dwelling bats the success rate in terms of bats surveys is likely to be very low. Therefore, notwithstanding that additional surveys may give more certainty, given the low level of bat population in this area, detection would remain unlikely and could in any event not be relied upon to presume that no roosting occurred/would occur. For this reason, the *potential* for roosting by nomadic bats is noted in both bat reports, and mitigation proposed to ensure their protection if they were to be present. I am satisfied that the approach taken, i.e. to acknowledge and assume that it is possible for bats to be roosting in the trees where the potential exists, and to appropriately mitigate at pre-construction stage, as well as during and post construction/operation stage.
- 7.9.12. While no bat roosting was detected on site, low levels of bat foraging/commuting was observed on site/on adjoining sites, and separately (in surveys undertaken by others) in the wider area. In the appeal case, the removal of 64 site features (including individual trees, tree groups, hedgerows) has undoubted potential to reduce foraging opportunity and increase disturbance for bats that may be currently using the site as part of the wider network of treelines and parkland in the local area. Therefore, regard is had to the loss of potential foraging and commuting habitat as result of the proposed development. While this removal of significant numbers of trees and shrubs represents a significant loss in the amount of potential roosting and foraging

habitat available to bats at this location, given the relatively low level of bat population/activity, the bat survey reports do not consider it to be significant in terms of its potential impact on the bat population in the area, and that subject to appropriate mitigation, compliance in respect of obligations under Annex IV of the Habitats Directive and Wildlife Act can be achieved.

- 7.9.13. In respect of connectivity to adjoining sites, and ensuring that foraging and commuting routes are maintained, it is noted that the open space/communal area being provided is being retained as a woodland, and that the trees along the western and northern boundary are generally being retained in order to maintain a corridor in which to commute, with additional planting proposed. I would note that the potential commuting corridor is in any event broken by the public road and grassed open space area opposite (in St. Anne's). The site is within an urban area, and zoned for development, and in fact surrounded by urban development, with associated levels of noise, light and human activity. While the development of the site will increase this, bats foraging and commuting in this wider area will continue along treelines and woodland and subject to appropriate mitigation in line with the Guidelines referenced, and as outlined in the assessment, I would be satisfied that there would be no significant disturbance to the bat population in this area (which is considered to be relatively low) and I also note that the species in question, Soprano pipistrelle and Leisler's Bat are of least conservation concern (Ireland Red list No. 12, NPWS, 2019).
- 7.9.14. I note that Annex IV of the Habitats Directive and domestic legislation provides protection for the habitats and roosts of all bat species, as well as the bats themselves. The maintenance or restoration of the favourable conservation status is the overall objective for all habitats and species in Annex IV.
- 7.9.15. I have considered the observers and biodiversity officer's comments regarding sub-optimal timing and inadequate number of site surveys, however, I also note the results of the previous survey undertaken the previous year in August (with similar results – i.e. no evidence of roosting, and minimal evidence of foraging) and that as a precautionary approach has been taken and potential roosts are assumed, and mitigation proposed, I am satisfied that the applicant has adequately demonstrated that there would be no significant adverse effect on the favourable conservation status of protected bat species.

- 7.9.16. The 3 no. ecologists carrying out the surveys and proposing mitigation measures are considered to be sufficiently expert in this field; have had regard to national and EU legislation and obligations; have concluded that the proposed development would not adversely impact on the conservation status of the bat species in the area; and have proposed appropriate and best practice mitigation measures.
- 7.9.17. I note the Board's previous decision (ABP Ref. 306314-20), which outlined concerns regarding inadequate information regarding bats, and I note that the current application, while adopting a similar survey methodology, i.e. only one survey which was carried out at the extreme end of the survey period, the additional survey (now 2 no. carried out on site) further supports the applicant's assertion that the site would not appear to have significant (if any) roosting, but acknowledges that there is potential for roosting and also that the site is/could be used for low levels of foraging and commuting. The mitigation measures are similar to those proposed under the previous application, however, in light of the additional survey results, which would have been within a reasonable timeframe of the first results, I consider it appropriate to have regard to the two results. I note the lapse in time now since the first survey, however, this is as a result of the processing of the case at application stage and thereafter appeal stage, rather than as a direct result or intention of the applicant.

Badgers

- 7.9.18. The current application does not include an assessment of impacts on badgers. I note that the previous application did assess the impact on badgers (August 2019) and found no setts. It stated that there were mammal tracks and badgers may occasionally enter the site, but there was no evidence of foraging or residing within the site. It acknowledged the presence of badger setts in Manresa and St Anne's Park and that passage through the site is a possibility.
- 7.9.19. Badgers and their setts are protected domestically under the Wildlife Act 1976, as well as internationally as a listed species for protection in Appendix 3 of the Bern Convention (to which Ireland is a signatory). Notwithstanding the extent of habitat removal proposed and the absence of an up-to-date badger survey for the site, I am satisfied that the indications of badger presence / activity from previous surveys on the site and surrounding area, including an acknowledgement in the applicant's previous application that badgers may use the appeal site as a passage, is sufficient to support the proposition that badgers may still use the site. However, I am satisfied

that this could be adequately addressed by conditions relating to the construction of the development and the maintenance of access.

Other species and habitats

7.9.20. The application does not include an assessment of the impacts on other species and habitats. The previous application included an 'Ecological Assessment' report which recorded bird activity and nests in the woodland, as well as tit species in a large Silver Birch tree to the front of the site (which was recommended to be seriously considered for retention). The report also recommended the retention of the tree canopy that supports foraging bats and other measures to protect and improve the ecological value of the site. Again, I am satisfied that the matters can be satisfactorily addressed through conditions, including limitations on the timing of tree removal.

Conclusion on Biodiversity

7.9.21. In conclusion, given the low level of bat activity recorded (in August 2019 and September 2020), and the nature of mitigation measures, which should ensure that any changed circumstances (which is always possible given the nomadic nature of bats roosting in trees) will continue to provide for the protection of any bats on site, I am satisfied that there is no evidence to the contrary to dispute the findings of the 2 bat surveys carried out on behalf of the applicant on this site. I am also satisfied that appropriate conditions can be applied to avoid any significant impacts on other species or habitats of ecological value. Natura 2000 sites are dealt with separately in section 8.0 of this report.

7.10. Other Matters

Drawings and documentation

7.10.1. Some concerns have been raised in relation to the lack of information in the drawings and documentation submitted with the application. I note that the Planning Authority deemed the application to be valid in accordance with the Planning and Development Regulations 2001 (as amended). Furthermore, I consider that the application contains sufficient drawings and detail to enable assessment. I consider that subterranean development will be adequately distanced from adjoining properties to prevent any significant impacts.

Amended Design Option

7.10.2. Concerns have also been raised about the inclusion in the first-party appeal of an 'alternative option' for the consideration of the Board. This is not an uncommon practice in the appeal process, but I do consider that the nature and extent of any such amendments are material factors. The overall scale of Block B would be reduced in this case, which would normally not give rise to material considerations for third parties. However, Block B would also be relocated to the southeast and would now be less than 8 metres from the rear garden boundaries of properties along Clontarf Road (it was previously 15-16m). It would also be significantly advanced of the front building line of The Oaks.

7.10.3. I would consider this a significant amendment that has the potential to affect overlooking and overbearing impacts on the adjoining properties. Therefore, in the absence of appropriate opportunities for public participation, I would draw the Board's attention to my concerns about taking the alternative option into consideration. In any case, I do not have a fundamental objection to Block B as originally proposed, and I do not consider that the alternative option is necessary.

Ownership

7.10.4. I note that the issues of land ownership and site boundaries have been raised. I am satisfied that the applicant has established sufficient legal interest to make the application and, having regard to the provisions of s. 34 (13) of the P&D Act 2000, the applicant would not be entitled to carry out the development solely by reason of a grant of planning permission.

Split-decision

7.10.5. Concerns have been raised that the issuing of a 'split-decision' by DCC (i.e. to grant Block A and refuse Block B) was not appropriate on grounds of public participation and the proper consideration of the overall scheme. As outlined in my assessment, I do not have any fundamental objection to both blocks as proposed and I do not consider that the 'split-decision' approach is necessary. However, this is an option that is open to the Board. If the Board is minded to adopt such an approach, I would highlight the need to consider the viability and suitability of the scheme and the development of the site as a whole.

8.0. **Appropriate Assessment**

The requirements of Article 6(3) of the Habitats Directive, as related to screening the need for Appropriate Assessment of a project under Part XAB (section 177U) of the Planning and Development Act 2000 (as amended), are considered fully in this assessment.

8.1. **Background to the application**

8.1.1. While the Planning Authority's reports refer to a 'screening report' provided by the applicant, and I note that references to same in section 13 of the applicant's 'Planning Report', the documents associated with the application and appeal do not include a separate AA Screening Report.

8.1.2. Section 13 of the applicant's 'Planning Report' states that the main potential indirect risk relates to the indirect hydrological connection to surrounding aquatic Natura 2000 sites. However, it concludes that standard foul/surface water management practice will ensure no negative impacts on protected habitats and that progression to Phase II Appropriate Assessment is not required.

8.1.3. The Planning Authority has noted the following:

- The proximity of the site to Natura 2000 sites
- The brownfield nature of the site within a developed urban area
- Proposals to connect to existing drainage networks
- Potential impacts are mainly from short-term C&D works
- There are no open water pathways to Natura 2000 sites.

8.1.4. The DCC Planner's states that the Drainage Division are requesting further information, which does not appear to be the case. The documents provided by the Planning Authority do not include any clear conclusion on the question of Appropriate Assessment.

8.1.5. Having reviewed the documents, drawings and submissions included in the appeal file, I am satisfied that the information allows for a complete examination and identification of any potential significant effects of the development, alone, or in combination with other plans and projects on European sites.

8.1.6. The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development would have any possible interaction that would be likely to have significant effects on a European Site(s).

8.2 **Brief description of the development**

8.2.1 As previously outlined, the proposal involves the demolition of 2 existing dwellings and outbuildings and the construction of 2 apartment blocks containing a total of 51 apartments, together with all associated siteworks and services. The front (northeast) portion of the site is largely composed of buildings and artificial surfaces, while the rear (southwest) portion is largely covered by woodland.

8.2.2. It is proposed to connect to the foul wastewater system which ultimately discharges to Dublin Bay after treatment at the Ringsend Plant. The application also indicates a potential connection to the surface water network (if deemed necessary), which also indicates a potential connection to Dublin Bay.

8.3 **Submissions and observations**

8.3.1 The Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media submission to the Planning Authority highlighted the potential for hydrological connections to Natura 2000 sites and the need for AA Screening. No submissions were received from Prescribed Bodies at appeal stage.

8.3.2 The third-party appeal and other observer's submissions also query the lack of AA Screening and the potential impacts of the development on the protected habitats and species within Dublin Bay. The content of all submissions relating to Natura 2000 sites will be considered as part of my assessment.

8.4 **European Sites**

8.4.1 The closest European Sites are North Dublin Bay SAC and North Bull Island SPA, which are both distanced c. 70m to the southeast of the appeal site. There are several Natura 2000 sites in and around Dublin Bay that are in excess of 4km from the appeal site. A summary of European Sites that occur within the possible zone of influence of the development is presented in the table below.

Table 1 – Summary of European Sites within a possible zone of influence of the development

European Site (Code)	List of Qualifying Interests / Special conservation interest	Distance from proposed development (km)	Connections (source, pathway, receptor)	Considered further in screening (Yes/No)
North Dublin Bay SAC (000206)	Mudflats and sandflats not covered by seawater at low tide [1140] Annual vegetation of drift lines [1210] Salicornia and other annuals colonising mud and sand [1310] Atlantic salt meadows (<i>Glaucopuccinellietalia maritimae</i>) [1330] Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410] Embryonic shifting dunes [2110] Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120] Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130] Humid dune slacks [2190] <i>Petalophyllum ralfsii</i> (Petalwort) [1395]	0.07 (c.70 metres)	Potential indirect connection via surface water network.	Yes
North Bull Island SPA (004006)	Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046] Shelduck (<i>Tadorna tadorna</i>) [A048] Teal (<i>Anas crecca</i>) [A052] Pintail (<i>Anas acuta</i>) [A054] Shoveler (<i>Anas clypeata</i>) [A056] Oystercatcher (<i>Haematopus ostralegus</i>) [A130] Golden Plover (<i>Pluvialis apricaria</i>) [A140] 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] Black-tailed Godwit (<i>Limosa limosa</i>) [A156] Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] Curlew (<i>Numenius arquata</i>) [A160]	0.07 (c.70 metres)	Potential indirect connection via surface water network.	Yes

	<p>Redshank (<i>Tringa totanus</i>) [A162]</p> <p>Turnstone (<i>Arenaria interpres</i>) [A169]</p> <p>Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</p> <p>Wetland and Waterbirds [A999]</p>			
<p>South Dublin Bay and River Tolka Estuary SPA (004024)</p>	<p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p> <p>Oystercatcher (<i>Haematopus ostralegus</i>) [A130]</p> <p>Ringed Plover (<i>Charadrius hiaticula</i>) [A137]</p> <p>Grey Plover (<i>Pluvialis squatarola</i>) [A141]</p> <p>Knot (<i>Calidris canutus</i>) [A143]</p> <p>Sanderling (<i>Calidris alba</i>) [A144]</p> <p>Dunlin (<i>Calidris alpina</i>) [A149]</p> <p>Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</p> <p>Redshank (<i>Tringa totanus</i>) [A162]</p> <p>Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</p> <p>Roseate Tern (<i>Sterna dougallii</i>) [A192]</p> <p>Common Tern (<i>Sterna hirundo</i>) [A193]</p> <p>Arctic Tern (<i>Sterna paradisaea</i>) [A194]</p> <p>Wetland and Waterbirds [A999]</p>	1km	Potential indirect connection via surface water network and wastewater connection to Ringsend WWTP	Yes
<p>South Dublin Bay SAC (000210)</p>	<p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Annual vegetation of drift lines [1210]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Embryonic shifting dunes [2110]</p>	3km	Potential indirect connection via surface water network and wastewater connection to Ringsend WWTP	Yes

8.4.2 Having regard to the scale of the proposed development; the separation distances involved and the dispersal/dilution capacities of the Dublin Bay waters; and the absence of identified pathways; I do not consider that any other European Sites fall within the possible zone of influence.

8.5 Identification of likely effects

- 8.5.1 In relation to *construction related impacts*, I note that the site is not within or directly adjacent to any European Sites. Apart from North Dublin Bay SAC and North Bull Island SPA (c. 70 metres away), all other relevant European Sites are located more than 1 Kilometre from the development site. There are no open water courses or indications of groundwater that form a hydrological pathway between the appeal site and the Natura 2000 sites.
- 8.5.2. Construction works can raise the potential for construction related pollution through the disposal of substances and run-off that may affect habitats and/or species. I consider that these potential impacts would be satisfactorily addressed by standard best-practice construction management and are not likely to have significant effects. Construction works can also cause disturbance to species as a result of noise, vibration, lighting and other activities. However, having regard to the location of the site within a busy built-up area, the absence of pathways, and the separation distance from Natura 2000 sites, I do not consider it likely that there will be significant construction related pollution or disturbance effects in this case.
- 8.5.3. In terms of vegetation clearance and habitat loss, it is again noted that no part of the development site is located within any European Sites and that there will be no direct loss of habitat. Despite the wildlife value of the existing trees and vegetation on the site, there are no indications that any of the qualifying species relevant to the Natura 2000 sites use the appeal site (bats and badgers are not qualifying interests). Accordingly, it is not considered that there is potential for habitat loss or fragmentation by reason of direct loss, disturbance or otherwise.
- 8.5.4. With regard to impacts at *operational stage*, it is acknowledged that the proposed foul water connections will ultimately result in wastewater emissions to Dublin Bay. Wastewater will be treated at the Ringsend plant which is licensed to discharge treated effluent to the Bay. The South Dublin Bay SAC and South Dublin Bay and River Tolka Estuary SPA are in close proximity to the Ringsend plant. However, I would consider that the minor scale of the proposed development would have an insignificant impact in the context of the overall capacity of the Ringsend plant and accordingly I do not consider that impacts on the Natura 2000 sites will be significant.

- 8.5.5. With regard to surface water emissions, the application indicates a potential discharge to the surface water network and ultimate outfall to the bay. However, it must again be acknowledged that the development is of a minor scale in the context of the overall drainage system, and best practice SUDs proposals are included on the site. In the context of the overall area of Dublin Bay, its tidal cycles and dilution effects, I do not consider that any surface water outfall associated with the proposed development would result in significant effects on the European sites.
- 8.5.6 The operational stage may also result in an increase in disturbance related to additional people, traffic, lighting etc. However, I do not consider that this would be significant in the context of the scale of surrounding development.
- 8.5.7 In terms of *cumulative effects*, the development must be considered in the context of various other projects around the bay area. As previously outlined, the proposed development would not be considered to have a significant cumulative impact in respect of the existing wastewater and surface water loading. Similarly, it is not considered that any disturbance as a result of the construction works or operational stage would be significant due to the limited scale of the development. The implementation of the Water Framework Directive, the policies of the Greater Dublin Drainage Study and the planned upgrade of the Ringsend treatment plant will see improvements to the water quality in Dublin Bay.
- 8.5.8 With regard to *ex situ impacts*, an observation on the appeal refers to the use of St Anne's Park as a feeding site for Brent Geese and other species. I note that the Light-bellied Brent Goose is a 'Special Conservation Interest' (SCI) for both the North Bull Island SPA and the South Dublin Bay and River Tolka Estuary SPA. With regard to 'ex situ factors' for these sites, section 3.1 of the NPSW 'Conservation Objectives Supporting Document' (2014) outlines that several of the listed waterbird species may at times use habitats situated within the immediate hinterland of the SPAs or in areas ecologically connected. It states that the reliance on these habitats will vary and that significant habitat change or increased levels of disturbance within these areas could result in the displacement of one or more of the listed waterbird species from areas within the SPA, and/or a reduction in their numbers. Section 5.2 of the document cites the example of Brent Geese increasingly exploiting grasslands when intertidal seagrass and algae become depleted.

8.5.9 The appeal site itself is comprised of urban gardens and woodland, which I do not consider to be suitable habitats for foraging or roosting for wetland bird SCIs at any time. While I acknowledge that St Anne’s Park may be used occasionally by the SCI waterbird species associated with the SPAs, it should be noted that the appeal site is within a built-up urban area and is separated from the park grassland by Mount Prospect Avenue. Having regard to the scale of the proposed development in the context of existing surrounding development, the separation distance and nature of development between the appeal site and the park, and the abundance of alternative grassland habitat available within park, I do not consider that any of the construction or operational impacts associated with the development are likely to significantly affect any of the SCIs associated with the SPAs. I am therefore satisfied that there will be no likely significant *ex situ* impacts on the conservation objectives for Natura 2000 sites.

8.5.10 Table 2 summarises the outcomes of the screening process.

Table 2 – AA Screening summary matrix

European Site (Code)	Distance from proposed development / Source, pathway, receptor	Possible effect alone	In combination effects	Screening Conclusions
North Dublin Bay SAC (000206)	C. 70 metres from the site, with a potential indirect connection via the surface water network.	Disturbance/emissions from construction works and surface water emissions are not likely to be significant due to the limited scale and duration of the proposed works.	No likely significant effect with other construction works and surface water emissions	Screened out for the need for AA
North Bull Island SPA (004006)	C. 70 metres from the site, with a potential indirect connection via the surface water network.	Disturbance/emissions from construction works and surface water emissions are not likely to be significant due to the limited scale and duration of the proposed works.	No likely significant effect with other construction works and surface water emissions	Screened out for the need for AA
South Dublin Bay and River Tolka Estuary SPA (004024)	1 km from the site, with an indirect connection via the wastewater treatment system and a potential indirect	No likely significant effects due to the limited scale of the development and the assimilative capacity of the Dublin Bay water body	No likely significant effect with other wastewater and	Screened out for the need for AA

	connection via the surface water network.		surface water emissions	
South Dublin Bay SAC (000210)	3 km from the site, with an indirect connection via the wastewater treatment system and a potential indirect connection via the surface water network.	No likely significant effects due to the limited scale of the development and the assimilative capacity of the Dublin Bay water body	No likely significant effect with other wastewater and surface water emissions	Screened out for the need for AA

8.6 Mitigation measures

No measures designed or intended to avoid or reduce any harmful effects of the project on a European Site have been relied upon in this screening exercise.

8.7 Screening Determination

8.7.1 The proposed development was considered in light of the requirements of section 177U of the Planning and Development Act 2000 (as amended). Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project, individually, or in combination with other plans or projects, would not be likely to give rise to significant effects on any European Sites in view of the sites' conservation objectives, and Appropriate Assessment including the submission of Natura Impact Statement is not, therefore, required.

8.7.2 This determination is based on the following:

- The limited scale and duration of the proposed works;
- The distance of the proposed development from European Sites and the absence of direct pathways; and
- The hydrological assimilative capacity of Dublin Bay.

9.0 Recommendation

Having regard to the above, I recommend that permission for the proposed development should be **granted** for the reasons and considerations set out below.

10.0 Reasons and Considerations

Having regard to the provisions of:

- (a) the Dublin City Development Plan 2016-2022, including the zoning and policy objectives applicable to the site,
- (b) the National Planning Framework, particularly National Policy Objectives 3b, 11, 13, 33 and 35,
- (c) the Urban Development and Building Heights Guidelines for Planning Authorities issued by the Department of Housing, Planning and Local Government in December 2018,
- (d) the Guidelines for Planning Authorities on Sustainable Residential Developments in Urban Areas (Cities, Towns & Villages) issued by the Department of the Environment, Heritage and Local Government in May 2009,
- (e) the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities issued by the Department of the Housing, Planning and Local Government in March 2018, and the update to these Guidelines published in December 2020,
- (f) the nature, scale and design of the proposed development and the existing character and pattern of development in the area,
- (g) the developed nature of part of the site and its location within a built-up urban area in proximity to social and transportation infrastructure, and
- (h) the documentation on the appeal file, including all submissions and observations received,

It is considered that, subject to compliance with the conditions set out below, the proposed development would respect the existing character of the site and the surrounding area and would provide an appropriate quantum and quality of development, would not result in an unacceptable loss of trees or any associated amenity or biodiversity value, would not seriously detract from the character or setting of St Anne's Conservation Area and surrounding Protected Structures, would not seriously injure the amenities of property in the vicinity, would provide an

acceptable form of residential amenity for future occupants and would be acceptable in terms of servicing, traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application on the 16th day of November, 2020, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The proposed development shall be amended as follows:
 - (a) The internal layouts of apartment no.'s 4 to 9 (inclusive) in Block B shall be amended so that the kitchen/living/dining rooms and the adjoining private amenity spaces are relocated to the south east façade of the building. The deck access arrangements on the northwest façade shall be amended accordingly.
 - (b) The northwest boundaries of the balconies/terraces serving units 7, 14, 15, 22, 23, 28 and 29 in Block A shall be fitted with 1.8m high privacy screening.

Proposals in respect of (a) and (b) above shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of protecting the residential amenity of existing and proposed properties.

3. The following tree protection measures shall apply in accordance with the drawings and documentation submitted to the planning authority on the 16th day of November, 2020:

- (a) The existing trees and hedgerows on site shall be retained and protected in accordance with the 'Tree Removals Plan' (Dwg Ref: 181127-P-21), 'Tree Protection Plan' (Dwg Ref: 181127-P-22) and 'Arboricultural Report' (including the proposed Arboricultural Method Statement).
- (b) Excavations in preparation for foundations and drainage, and all works above ground level in the immediate vicinity of trees to be retained shall be carried out under the supervision of a specialist arborist, in a manner that will ensure that all major roots are protected and all branches are retained.

Reason: To ensure that the trees are not damaged or otherwise adversely affected by building operations.

4. The following wildlife protection measures shall be complied with:

- (a) No trees or hedgerows shall be cleared, and no demolition works shall be carried out, between the months of March to August (inclusive).
- (b) The proposed development, including the removal of trees and demolition works, shall be carried out in accordance with the recommendations of 'Guidelines for the treatment of bats during the construction of National Road Schemes', and 'Guidelines for the treatment of badgers prior to the construction of National Road Schemes' as published by the National Roads Authority.
- (c) The developer shall comply in full with the methodologies and mitigation measures included in the 'Bat fauna assessment' submitted to the planning authority on the 16th day of November, 2020.
- (d) Site boundary treatments shall maintain access for badgers from neighbouring properties, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of wildlife protection.

5. Details of the materials, colours and textures of all the external finishes to the proposed development, including the landscaping details for the 'living wall' to the front of Block A, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

6. The construction of the development shall be managed in accordance with a Construction and Environmental 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 and dust management measures, environmental protection measures and traffic management arrangements.

Reason: In the interest of public safety, environmental protection, and residential amenity.

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

Reason: In the interest of public health

8. Prior to commencement of development, the developer shall enter into water and wastewater connection agreement(s) with Irish Water.

Reason: In the interest of public health

9. The developer shall facilitate the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:

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

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

Reason: In order to conserve the archaeological heritage of the site area and to secure the preservation and protection of any archaeological remains that may exist within the site.

10. Public lighting shall be provided in accordance with a scheme, (which shall include lighting along pedestrian routes through open spaces) details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall comply with the mitigation measures for bats and shall be provided prior to the making available for occupation of any apartment.

Reason: In the interest of amenity and public safety.

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

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

12. Communal waste storage areas shall be designed and managed in accordance with an Operational Waste Management Plan, which shall contain details for the management of waste and, in particular, recyclable materials within the development, including the provision of facilities for the storage, separation and collection of the waste and for the ongoing operation of these facilities for each apartment unit. Proposals shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

13. (a) A minimum of 10% of all communal car parking spaces shall be provided with functioning electric vehicle charging stations/points, and ducting shall be provided for all remaining car parking spaces facilitating the installation of electric vehicle charging points/stations at a later date. Proposals in accordance with the above noted requirements shall be submitted and agreed in writing with the planning authority prior to the occupation of the development.

(b) The car parking spaces shall be for the sole use of resident / visitor parking and shall not be sold, sublet or leased to third parties.

Reason: To provide adequate parking and to provide for and/or future proof the development such as would facilitate the use of electric vehicles.

14. Prior to the occupation of the development, a Mobility Management Plan (including an interim or temporary strategy reflecting any requirements or adjustments relating to Covid-19 movement and travel patterns) shall be submitted to and agreed in writing with the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking and carpooling by residents/occupants/staff employed in the development and to reduce and regulate the extent of parking. The interim or temporary strategy, where applicable, should reflect the requirements of DMURS Interim Advice Note – Covid Pandemic Response (May, 2020). The mobility plan 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.

15. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of public open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

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

Reason: In the interest of sustainable waste management.

17. Opaque glazing to the side elevations of Block A shall be implemented as indicated in the drawings submitted to the planning authority on the 16th day of November, 2020.

Reason: In the interest of privacy and residential amenity.

18. The following requirements shall be provided for and adhered to in the development:

(a) Alterations to the public road and footpath including the interface between the footpath and private property shall be in accordance with the requirements of the planning authority.

(b) All repairs to the public road and services that may be required shall be carried out to the satisfaction of the planning authority at the applicant's expense.

(c) The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs shall comply with

the detailed standards of the planning authority for such road works.

Reason: In the interests of clarity, public safety and amenity.

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

Reason: In the interests of visual and residential amenity.

20. Prior to the commencement of development, the developer shall submit for the written agreement of the planning authority, drawings showing all development works to be taken in charge designed to meet the standards of the planning authority.

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

21. The landscaping proposals submitted to the planning authority on the 16th day of November, 2020, including the 'Landscape Design' (Drawing No. 00) and 'Landscape Details' (Drawing No. 01), shall be carried out within the first planting season following substantial completion of external construction works. All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of visual amenity.

22. No additional development, including lift motor enclosures, air handling equipment, storage tanks, ducts or external plant, or telecommunication antennas, shall be erected at roof level other than those shown on the plans and particulars lodged with the application. All equipment such as extraction ventilation systems and refrigerator condenser units shall be insulated and positioned so as not to cause noise, odour or nuisance at sensitive locations.

Reason: In the interests of visual and residential amenities.

23. Hours of work shall be confined to 0700 to 1900 Mondays to Fridays inclusive, excluding bank holidays, and 0800 to 1400 hours on Saturdays. Deviation from these times will only be allowed in exceptional circumstances subject to the prior written agreement of the planning authority.

Reason: In the interest of residential amenities of surrounding properties and in the interest of clarity.

24. Boundary treatment shall be in accordance with the requirements of the planning authority, details of which shall be submitted for the written agreement of the planning authority prior to commencement of development.

Reason: In the interest of visual and residential amenity.

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

referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

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

26. 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 of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion 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 of the development.

27. 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.

Stephen Ward
Senior Planning Inspector

29th July 2020