

An  
Bord  
Pleanála

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

### Inspector's Report ABP-309807-21

#### Strategic Housing Development

Demolition of 4 no. dwellings  
(Rockwinds, Woodlawn, No. 43  
Watson Road and No. 66 Watson  
Drive), construction of 255 no.  
residential units (7 no. houses, 248  
apartments), childcare facility and  
associated site works.

#### Location

Lands consisting of Kylemore,  
Rockwinds, Smallacre and Woodlawn  
off Church Road, No. 43 Watson Road  
and No. 66 Watson Drive, Killiney, Co.  
Dublin ([www.kylemoreshd2.ie](http://www.kylemoreshd2.ie))

#### Planning Authority

Dun Laoghaire Rathdown County  
Council

#### Applicant

Atlas GP Limited

**Prescribed Bodies**

Irish Water

National Transport Authority (NTA)

Transport Infrastructure Ireland (TII)

Department of Culture Heritage and  
the Gaeltacht

An Taisce

Heritage Council

An Chomhairle Ealaíona

Health Service Executive

Dun Laoghaire-Rathdown County  
Childcare Committee

**Observer(s)**

76 submissions received

Alan Mullen

Andrew and Audrey Ross

Anne Preston

Anthony and Mary Dalton (Declan  
Brassil)

Barry A Tapley

Breege O Malley

Brian and Marie Forrester

Bridie and John Mc Carthy

Christy & Marie Upton

Clare Graham

Conall and Karen Mc Mullan

Conor Molloy

Daniel Regan

DAU

David Allman

David and Julie Kelly (BPS Planning)

David Little

Denis Manning

Diane Hayes

Eadaoin O'Keeffer

Eamonn and Debora Carr

Eileen Murphy

Eileen Nelson

Eugene Savage

Gavin Dredge

Gerald F Mc Connell

Helen Johnston Bruce

Hilary M Tarley

Irish Water

Jackie & Sean Hayes

Joan Redmond

John Lane

John McManus

John Murphy

John Treston

Jonathon O'Keeffe

Katrina McCarthy (Anthony Marston)

Ken & Julie Blackmore

Laurence and Patricia Finnerty

Madeleine Murrin

Margaret Brophy

Marie Hooper

Michael and Ann Igoe

Michael and Terri Byrne

Michael O'Brien  
Michael Phillips  
Mr and Mrs Stuart Kearns  
Nigel Murray  
Patricia & James Morris  
Paul P. Murphy  
Paul T. Murphy  
Paula Dean  
Peter Bruce  
Rhoda Miller  
Richard and Regina Parnell  
Richard Boyd Barrett  
Robert and Andrea McDonald  
Robert Miller  
Robert Parnell and Carla Byrne  
Robert Wallace  
Rosalind Matthews (BPS Planning)  
Tania and Phillip Addison  
Thelma Welsh  
Thomas O'Brien  
Thomas O'Sullivan  
TII  
Tynan Hooper (BPS Planning)  
Watson Killiney Residents Association  
Watson Traffic Action Committee

**Date of Site Inspection**

21<sup>st</sup> June 2021

**Inspector**

Lorraine Dockery



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## 1.0 Introduction

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

## 2.0 Site Location and Description

- 2.1 The subject site, which has a stated site area of 2.5 hectares, is located in the mature residential area of Killiney – approximately 17km from Dublin city centre. Killiney shopping centre is within walking distance, located less than 1 km to the north of the site while Ballybrack shopping centre is located a similar distance to the south-west. An existing pedestrian link through the Watson Estate connects the subject site to Ballybrack Shopping Centre and Kilgobbet Park. Church Road (R118) runs along the eastern boundary of the subject site and is identified as a 'Proposed Bus Priority Route' from Cherrywood to Dun Laoghaire and Blackrock. Church Road has good cycle and pedestrian facilities.
- 2.2 This irregular site is divided into two, interconnected distinct plots. The northern portion of the subject site is comprised of three adjacent properties – Rockwinds, Smallacre and Woodlawn. These properties include recessed entrances via Church Road, which are currently boarded up. Also included in this northern portion of the subject site is No. 43 Watson Road, a detached bungalow with access via Watson Road. The property known as Smallacre has recently been demolished in accordance with a Derelict Site Notice.
- 2.3 The southern portion includes Kylemore House – the former Kylemore Clinic (nursing home) – and associated outbuildings including gate lodge with access via Church Road. Also located in the southern portion of the site is No. 66 Watson Drive. This two storey, semi-detached residential property is accessed via Watson Drive and has a rear garden that adjoins lands associated with Kylemore House. St. Matthias Wood residential estate is located to the south and west of this site. Kylemore House is a large two storey over basement Victorian building with an associated gate lodge located at the site entrance at Church Road. Several

extensions have been constructed on the northern side of the building. The Kylemore Clinic operated at this location between 1947 and 2009, when the charity sold the premises and relocated to a purpose-built facility in Rathfarnham. While Kylemore House and gate lodge are not designated as a Protected Structures under the current County Development Plan, they are listed as a proposed Protected Structures within the draft Dun Laoghaire County Development Plan 2022.

- 2.4 The area along Church Road is generally characterised by detached dwellings on large plots set back from the roadway behind high stone walls. To the west, the area is characterised by detached and semi-detached properties either single or two storey in height along Watson Road and Watson Drive.
- 2.5 The Cherrywood and Brides Glen Luas Stops are located in excess of 2.5km to the south of the subject site. Killiney DART station is located approximately 2km walking distance to the east and a number of bus services operate in the area.
- 2.6 The overall site contains a number of mature trees and vegetation and is generally well screened.

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

- 3.1. The proposed development, as per the submitted public notices, comprises the demolition of four dwellings and construction of 255 residential units, a childcare facility, 220 car parking spaces and ancillary site works. The works also include the change of use of Kylemore House to residential use, together with demolitions/renovations to both Kylemore House and associated gate lodge. The works also include the replacement of three no. vehicular entrances onto Church Road with 2 no. pedestrian and bicycle accesses, together with two new vehicular, pedestrian and cycle entrances onto Watson Road and all associated site development works.
- 3.2. The following tables set out some of the key elements of the proposed scheme:

Table 1: Key Statistics

	Proposed (all figures stated by applicant in submitted documentation)
<b>Site Area</b>	2.5 ha
<b>No. of units</b>	255 units (7 no. houses; 248 apartments in 6 blocks)
<b>Other uses</b>	<p>Childcare Facility (41 childcare spaces) - 242 m<sup>2</sup>- GF of Block D1</p> <p>Community uses for future residents within GF and FF of Kylemore House- 215m<sup>2</sup></p> <p>Replacement of 3 existing vehicular access onto Church Rd with 2 pedestrian/bicycle entrances</p> <p>Provision of 2 new vehicular, pedestrian &amp; cycle entrances onto Watson Road</p> <p>Provision of 1 new pedestrian/bicycle access onto Watson Drive</p>
<b>Demolition Works</b>	<p>4 dwellings- Rockwind, Woodlawn, No. 43 Watson Road and No. 66 Watson Drive</p> <p>Outbuildings and extensions to Kylemore House</p> <p>Existing extension to gate lodge associated with Kylemore</p>
<b>Density</b>	100 units/ha (northern portion- 152 units/ha; southern portion 65 units/ha)
<b>Aspect</b>	48% dual aspect (apartments); 100% dual aspect (houses)
<b>Height</b>	2-6 storeys over basement
<b>Open Space Provision (public and communal)</b>	6,855 m <sup>2</sup> (29%)
<b>Car Parking Provision</b>	220 spaces (0.86 spaces/apt; 1 space/house)/ 2 spaces for childcare facility
<b>Bicycle Parking Provision</b>	548 spaces
<b>Vehicular Access</b>	Via Watson Road
<b>Part V</b>	26 units- 16 x 1bed; 10 x 2 bed



Table 2: Unit Mix

	Studio	1 bed	2 bed	3 bed	Total
Apartments	1 (0.4%)	98 (38%)	137 (53.6%)	12 (5%)	248
Houses		-	-	7 (3%)	7

- 3.3. A CoF from Irish Water was submitted with the application, which states that the proposed connection to the IW network can be facilitated. A Design Submission has also been submitted. Irish Water states that based on the information provided, they have no objection to the proposal.
- 3.4. A letter of consent from Property Management Section, Dun Laoghaire-Rathdown County Council has been submitted, giving consent to the inclusion of lands hatched in green for connections to the public realm and utilities as part of a SHD application at Kylemore, Church Road, Killiney, Co. Dublin, subject to conditions (dated 01/03/2021).

#### 4.0 Planning History

- 4.1 There are a relatively large number of applications in the wider area and a comprehensive list of same is included within the PA Opinion, section 5.0. I refer the Bord to same. Applications of relevance are as follows:

ABP-301334-18 (SHD application on subject site)

Permission GRANTED on the subject lands for a development comprising:

- Demolition of 4 no. dwellings (Rockwinds, Smallacre, Woodlawn and No. 66 Watson Drive) and outbuildings and extensions to Kylemore House; and
- Construction of a residential development with access onto Watson Road consisting of 102 no. units comprising 68 no. apartments, 13 no. courtyard units and 21 no. houses.
- The permitted apartments are set out in 6 no. 4-5 storey blocks, with 6 no. additional apartment units contained in the renovated and extended Kylemore House. To the north and west of Kylemore House, single storey mews style dwellings and houses are provided in a courtyard layout.

The permitted development also includes:

- Replacement of 3 no. vehicular accesses onto Church Road with 2 no. pedestrian and cycle accesses; 163 no. car parking spaces with new vehicular access via Watson Road; the demolition of No. 66 Watson Road to provide a new pedestrian and cyclist connection to the west and enable drainage infrastructure into the public services in Watson Estate; and the provision of ancillary and associated site development works.

Noted that the permitted scheme did not include No. 43 Watson Road as per the current application.

D15A/0778/PL06D.246228

Permission REFUSED for development consisting of demolition of three dwellings (Smallacre, Rockwinds, and fire damaged Woodlawn), Church Road and outbuilding and extensions to Kylemore clinic building and construction of residential development consisting of 65 units all with on-street parking, change of use of former Kylemore Clinic from institutional to residential use, construction of 4 storey apartment block with 28 apartments, redesign of No. 43 Watson Road to include removal of part of the house and provision of rear extension, redesign of Gate Lodge to include removal of part of the house and provision of rear extension, resulting in a three bedroom house with access onto Church Road. The provision of 130 car parking spaces (both underground and surface), together with all associated site works.

The Board refused permission for this development for three reasons summarized as follows:

- the proposed development lacked in quality open space and compromised the integrity of the setting of the house and open character of the area and layout contrary to the section 8.2 development management Part (xi): Institutional lands
- layout of the development is deficient in terms of quality open space



- the Board was not satisfied that the applicant had adequately demonstrated that the foul drainage system in the wider area had sufficient capacity to accommodate additional flows even after the provision of the remedial works.

Other relevant applications:

D17A/0868 / PL06D.301128

Permission GRANTED for demolition of fire damaged 'Arranmore' and fire damaged shed and fire damaged 'San Michele' at Church Road; the closing up of three existing vehicular accesses onto Church Road, while maintaining one as a pedestrian/cycle access. Construction of residential development with new vehicular access through No. 19 Watson Road, consisting of 42 no. new residential units. Redesign of No. 19 Watson Road to include removal of part of the house to provide a new access road and provision of a new rear extension. All associated site development, landscaping, boundary treatment works, services provision and ancillary site works.

D15A/0777/PL06D.246229

Permission REFUSED for residential development consisting of 15 no. houses and all associated site works at 'Arranmore' and 'San Michele'. The reason for refusal set out that "the Board was not satisfied notwithstanding the proposed remedial works to the foul and surface water sewers in Watson Road, that the development could be adequately accommodated into the existing public foul and surface water systems, and in particular was not satisfied that the applicant had adequately demonstrated that the foul drainage system in the wider area had sufficient capacity to accommodate additional flows from the proposed development (and related proposed development under ABP Ref. No. PL06D.246228) even after the provision of these remedial works. The proposal would be considered prejudicial to public health."

D14A/0106 / PL06D.244195

Permission REFUSED for demolition of 'San Michele' and 'Arranmore', replace three access points with single access, construction of 8 houses, redesign 19 Watson

Road. Reason for refusal pertained to additional traffic turning movements generated by the proposed development onto the heavily trafficked Church Road which would endanger public safety by reason of traffic hazard and would have a seriously adverse impact on the carrying capacity of the link road. The Board also noted that it was not satisfied that the development could be adequately accommodated into the existing foul and surface water systems, and in particular was not satisfied that the applicant had adequately demonstrated that the foul drainage system in the wider area had sufficient capacity to accommodate additional flows from the proposed development even after proposed remedial works. The Board did not consider it appropriate to seek further information on this matter having regard to the substantial reason for refusal.

D14A/0107/ PL06D.244194

Permission REFUSED for demolition of 'Smallacre' and 'Woodlawn' and erection of 8 no. houses, alter/extend 43 Watson Road and replace two existing access points with single access all at 'Smallacre' and 'Woodlawn', Church Road and 43 Watson Road, Killiney. Reason for refusal pertained to additional traffic turning movements generated by the proposed development onto the heavily trafficked Church Road which would endanger public safety by reason of traffic hazard and would have a seriously adverse impact on the carrying capacity of the link road. The Board also noted that it was not satisfied that the development could be adequately accommodated into the existing foul and surface water systems, and in particular was not satisfied that the applicant had adequately demonstrated that the foul drainage system in the wider area had sufficient capacity to accommodate additional flows from the proposed development even after proposed remedial works. The Board did not consider it appropriate to seek further information on this matter having regard to the substantial reason for refusal.

SHD Applications in Vicinity:

ABP-304823-19

Permission GRANTED at Churchview Road and Church Road, Killiney, Co. Dublin. The site is located to the west of the Graduate Roundabout and Church Road, to the

north of Fairhaven and Churchview Road, and to the east of an area of open space. The proposed development consisted of the demolition of three number existing dwellings and the construction of 210 no. residential units (apartments) in three number blocks ranging in height from three to seven storeys, including lower ground floor/basement level. The proposal also included a childcare facility and residents' amenity facility. A total of 227 number car parking spaces were proposed, together with 348 number cycle parking spaces. The proposal also included for associated site development and infrastructural works on a total site area of 1.59 hectares.

## **5.0 Section 5 Pre Application Consultation**

5.1 A Section 5 pre application consultation took place via Microsoft Teams due to Covid-19 restrictions on the 14<sup>th</sup> October 2020. Representatives of the prospective applicant, the planning authority and An Bord Pleanála were in attendance. Following consideration of the issues raised during the consultation process, and having regard to the opinion of the planning authority, An Bord Pleanála was of the opinion that the documentation submitted constituted a reasonable basis for an application for strategic housing development to An Bord Pleanála (Ref. ABP-307203-20) and that the following specific information should be submitted with any application for permission:

1. A detailed statement of consistency and planning rationale, clearly outlining how in the prospective applicant's opinion, the proposal is consistent with local planning policies having specific regard to the zoning objective of the site and local objective for 'Institutional' use associated with the former Kylemore Clinic. There is a need to justify how the proposal complies with the Local Objective: 'To protect and / or improve institutional use in open lands' and Policy RES5 and how it maintains the open character of the institutional lands.
2. Justification of hierarchy and quantum of open space provision, both communal and public open space (POS). Clarity with regard to compliance with Development Plan standard of 25 % requirement of POS for lands with Institutional Objective attached. Justification of rear garden depth and future residential amenity afforded to residents of proposed houses.



3. The clear identification on submitted floor plans at application stage of those apartments considered by the applicant to constitute dual aspect and exceeding minimum floor areas by 10% having regard to the provisions of 'Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities' (2018).
4. An updated Architectural Design Statement. The statement should include a justification for the proposed development, having regard to, inter alia, urban design considerations, visual impacts, site context, the locational attributes of the area, linkages through the site, pedestrian connections and national and local planning policy. The statement should specifically address height, the separation distance between proposed blocks, finishes of the blocks, the design relationship between the individual blocks within the site, the relationship with adjoining development and the interface along the site boundaries, in particular with Church Road and to the south and south west with Saint Mathias Wood development. The statement should be supported by contextual plans and contiguous elevations and sections.
5. A report that addresses issues of residential amenity (both existing residents of adjoining development and future occupants), specifically with regards to potential overlooking, overshadowing and overbearing. The report shall include full and complete drawings including levels and cross-sections showing the relationship between the proposed development and adjacent residential development. It should address impact of the development upon development potential of adjoining lands.
6. A Daylight and Shadow Impact Assessment of the proposed development, specifically with regard to impact upon adequate daylight and sunlight for individual units, public open space, courtyards, communal areas, private amenity spaces and balconies.
7. A detailed Quality Audit (which shall include a Road Safety Audit, Access Audit, Cycle Audit and a Walking Audit) prepared by a suitably qualified and competent person demonstrating specific compliance with the requirements set out in the

Design Manual for Urban Roads and Streets and the National Cycle Manual, indicating pedestrian, cycle and vehicular links through the site and connectivity with the wider area.

8. A full response to matters raised within the PA Opinion and Appended Dun Laoghaire-Rathdown County Council Department comments submitted to ABP on the 24.06.2020

### **Applicant's Statement**

A statement of response to the Pre-Application Consultation Opinion was submitted with the application, as provided for under section 8(1)(iv) of the Act of 2016. This statement provides a response to each of the specific information raised in the Opinion.

It is noted that a Material Contravention Statement was also submitted with the application documentation. This shall be addressed further within the main assessment.

## **6.0 Relevant Planning Policy**

### **6.1. National Planning Policy**

#### **Section 28 Ministerial Guidelines**

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

- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (including the associated Urban Design Manual)
- Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities
- Urban Development and Building Heights, Guidelines for Planning Authorities
- Design Manual for Urban Roads and Streets

- The Planning System and Flood Risk Management (including the associated Technical Appendices)
- Childcare Facilities – Guidelines for Planning Authorities
- Architectural Heritage Protection, Guidelines for Planning Authorities
- Climate Action Plan

Other policy documents of note:

- National Planning Framework

Objective 13

In urban areas, planning and related standards, including in particular building height and car parking will be based on performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.

Objective 27

...to ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments, and integrating physical activity facilities for all ages.

Objective 35

Increase residential density in settlement, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site based regeneration and increased building heights.

- Regional Spatial & Economic Strategy for the Eastern & Midland Regional Assembly
- Dublin Metropolitan Area Strategic Plan

6.2. Local Planning Policy

The Dún Laoghaire-Rathdown County Development Plan 2016-2022 is the operative County Development Plan for the area.



### Zoning:

'Objective A' which seeks to 'protect and/or improve residential amenity'

Under this zoning objective, residential uses are "permitted in principle".

The southern portion of the lands include an 'Institutional' objective associated with the former Kylemore Clinic. In addition, there is an objective 'To preserve trees and woodland'.

The 'INST' symbol is listed on the Map Index under "Other Objectives" and is separate to the "Use Zoning Objectives". The INST designation is stated as *"To protect and/or provide for Institutional Use in open lands."*

An area of archaeological potential extends within the subject lands, RMP Ref. 026-009 pertaining to 'Watson Road-Earthwork'.

There is a 'Six Year Road Objective' as part of the Cherrywood to Dun Laoghaire Strategic Route (R118 Wyattville Road to Glenageary Roundabout) along the adjacent roadway of Church Road (R118). Church Road and sections of Churchview Road are also identified as proposed Bus Priority Routes from Cherrywood to Dun Laoghaire and Blackrock.

### Policies/Objectives pertaining specifically to Institutional Designation

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

Section 2.3.5 states that "It is recognised that many institutions in Dun Laoghaire-Rathdown are undergoing change for various reasons. Protecting and facilitating the open and landscaped 'parkland' settings and the activities of these institutions is encouraged. Where a well-established institution plans to close, rationalise, or relocate, the Council will endeavour to reserve the use of the lands for other institutional uses, especially if the site has an open and landscaped setting and recreational amenities are provided. Where no demand for an alternative institutional

use is evident or foreseen, the Council may permit alternative uses subject to the zoning objectives of the area and the open character of the lands being retained.”

Section 8.2.3.4(xi) notes a minimum open space requirement of 25% of the total site area (or population based provision, whichever is the greater).

Section 2.1.3.5 states that in the development of institutional lands the average net densities should be in the region of 35-50 units per ha but that in certain instances higher densities will be allowed where it can be demonstrated that they contribute towards the designation retaining the open character and/or recreational amenities of the lands.

#### Other relevant policies/objectives

Policy UD1: It is Council policy to ensure that all development is of high quality design that assists in promoting a ‘sense of place’. The Council will promote the guidance principles set out in the ‘Urban Design Manual – A Best Practice Guide’ (2009), and in the ‘Design Manual for Urban Roads and Streets’ (2013) and will seek to ensure that development proposals are cognisant of the need for proper consideration of context, connectivity, inclusivity, variety, efficiency, distinctiveness, layout, public realm, adaptability, privacy and amenity, parking, wayfinding and detailed design.

Policy UD6: It is Council policy to adhere to the recommendations and guidance set out within the Building Height Strategy for the County.

Chapter 2 outlines that the Council is required to deliver c.30,800 units over the period 2014 – 2022. It is stated that the Council in seeking to secure this objective will focus on three strands, namely: increasing the supply of housing; ensuring an appropriate mix, type and range of housing; and, promoting the development of balanced sustainable communities.

There are a number of policies and objectives within the operative County Development Plan in relation to residential development; urban design principles, transport, building heights and other such matters.

Housing policies (section 2.1.3) include:

Policy RES3: Residential Density, which promotes higher residential densities in the interests of promoting more sustainable development whilst ensuring a balance

between this and ensuring the reasonable protection of residential amenities and established character of areas;

Policy RES4: Existing Housing Stock and Densification, which encourages the densification of existing housing stock to retain population levels,

Policy RES7: Overall Housing Mix, which encourages the provision of a wide variety of housing and apartment types.

Policy ST3: It is Council policy to promote, facilitate and cooperate with other transport agencies in securing the implementation of the transportation strategy for the County and the wider Dublin Region as set out in Department of Transport's 'Smarter Travel, A Sustainable Transport Future 2009 –2020' and the NTA's 'Greater Dublin Area Draft Transport Strategy 2016-2035'. Effecting a modal shift from the private car to more sustainable modes of transport will be a paramount objective to be realised in the implementation of this policy.

Appendix 9 details the Building Height Strategy.

#### Section 4.8.1 Upward Modifiers

It is stated that Upward Modifiers may apply where: the development would create urban design benefits; would provide a significant planning gain; would have a civic, social or cultural importance; the built environment or topography would permit higher development without damaging appearance or character of an area; would contribute to the promotion of higher densities in areas with exceptional public transport accessibility; and, the size of the site of e.g. 0.5 ha could set its own context. To demonstrate that additional height is justified, it will be necessary for a development to meet more than one 'Upward Modifier' criteria.

Table 8.2.3 sets out the residential land use car parking standards as follows:

Residential Dwellings -	1 space per 1-bed and 2-bed unit
	2 spaces per 3-bed unit
Apartments -	1 space per 1 bed unit
	1.5 spaces per 2 bed unit
	2 spaces per 3-bed unit+

Table 4.1 sets out the cycle parking standards as 1 short stay space per 5 units and 1 long stay space per unit.

## Draft Dun Laoghaire Rathdown County Development Plan 2022-2028

Kylemore House (House) and Kylemore Lodge (Gate Lodge) are included as proposed Protected Structures, under RPS No. 2124 and RPS No. 2125 respectively.

### **6.3. Applicant's Statement of Consistency**

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

A Material Contravention Statement has been submitted in relation to the matters of (i) building height (ii) density (iii) car parking (iv) separation distances (v) dual aspect (vi) unit mix.

### **7.0 Observer Submissions**

- 7.1. In total, 70 observer submissions were received. The bulk of the submissions were received from the residents of Watson estate (Watson Road, Watson Drive and Watson Park). Submissions were also received from the residents of Church Road and Churchview Road. A small number of submissions were received from other areas. In addition, a submission was received from the Watson Killiney Residents' Association and Watson Traffic Action Committee (sub-committee of Watson Killiney Residents' Association). One submission was received from an Elected Member. Some submissions acknowledge the need for additional housing but have concerns regarding this specific proposal. These concerns may be summarised as follows, with the topics expanded upon where necessary within my assessment:

Watson Road/Drive/Park and Watson Killiney Residents' Association/Watson Traffic Action Committee:

Principle of development/Scale/height/density

- Intensity of development, scale and massing in terms of impacts on property was completely different to that currently proposed; significant overdevelopment of the lands; appropriateness of density at this location; backland location



- Inappropriate density given public transport links; premature pending upgrade of public transport infrastructure; not appropriate location for scale, mass and density proposed; failed to take correct approach to overall design, layout and scale; height and elevational treatment of proposal- out of character; setting of precedent
- Piecemeal development; does not provide for comprehensive and orderly development; absence of a masterplan; concern for future applications on other sites
- Material contravention in relation to height is unjustified

#### Zoning/Policy Context

- No rationale why Policy RES 5 should take priority over RES 3
- Contrary to zoning objective and to institutional objective
- Proposal materially contravenes Policy RES 5
- Inadequate masterplan

#### Residential Amenity

- Location, position and form of Block C2 and C1 will result in material reduction in residential amenity; insufficient separation distances; impacts of proposed dwelling houses due to length of rear garden areas
- Requests omission of Block C1 and increase in rear garden depth to proposed dwellings or omission of two upper floors of Block C1 and revised design; other submission state that all blocks should be reduced to maximum of four storeys

Injurious to residential amenity; loss of light, overshadowing; overlooking of properties on Watson Drive/Road; impacts on privacy

- Residential amenity for future occupants; lack of recreational facilities for wider area within site; replacement of tree behind No. 70 Watson Drive with an ESB substation
- Concerns regarding construction hours
- Noise from playgrounds

### Visual Amenity

- Impacts on visual amenity; Block C2 will appear incongruous and overbearing; level differences
- Demolition of No. 66 Watson Drive; setting of precedent; eyesore for No. 68; aesthetically disruptive; no consent given to carry out works to their property; concerns regarding structural integrity of their property; construction concerns

### Social Impacts

- Social impacts on schools and facilities; extent of one-bed units skewed towards a rental market; will not contribute to sense of community; transient population to the detriment of the existing community; need for houses not apartments in this area
- Potential for anti-social behaviour with new pedestrian link to Watson Drive; lack of passive surveillance; security concerns

### Architectural Heritage

- Negatively impact upon character and setting of proposed Protected Structures
- Contravention of Policy 4.1.2.5 and LHB6 of operative CDP in relation to protection of views and prospects

### Biodiversity

- Impacts on flora and fauna; badger setts
- Bat surveys in EcIA are significantly out of date- no conclusions can be made from them; significant flaw
- Inadequate planting
- Inadequate public open space- queries basis for calculations; open space provisions of RES5 not being adequately met; location of children's play area along Church Road; distribution of open space

### Drainage

- Existing sewage system cannot take additional loads without upgrades; premature until existing system is upgraded; no remedial works to existing



foul sewerage system have ever been completed on Watson Road; previous applications refused permission on these grounds

- Surface water drainage proposals are inadequate; existing issues; concerns regarding flooding and surface water overflow; concerns regarding information submitted
- Water supply concerns re impacts of increased demand on rate of flow in adjacent areas
- Fire water storage does not appear to have been provided; access for emergency vehicles

#### Traffic and transportation

- Traffic increase; existing problems exacerbated; combined cumulative impacts with other permitted developments; safety concerns; increased congestion; traffic measures needed; concerns regarding overflow parking on Watson Road/Drive; queried why direct access onto Church Road is not possible with provision of traffic lights; recommendation that all traffic enters/exits the site via Church Road
- Proximity of proposal to road widening reservation on Church Road
- Accuracy of information regarding proximity to public transport/frequency of service

#### Construction Impacts

- Concerns regarding construction impacts (noise, dust, traffic, flora, fauna, pollution, vermin); construction traffic on Watson Road; disturbance

#### EIA

- Inadequacy of assessments- EIA Screening Report does not assess cumulative impacts of proposal; EIAR should have been prepared

#### Other Matters

- Inadequate consultation; not sufficiently publicised; concerns with SHD process

- Accuracy of documentation/missing information; no right of way to Church Road from Watson Road/Drive
- Lack of taking in charge details; site clearance and tree felling concerns; boundary treatment
- Depreciation of property values

#### Church Road/Churchview Road

Additional concerns raised in the submissions from residents of the above, not already raised above include:

- Recommendation that final grant of permission should include dedicated car club spaces; passive charging to all spaces; secure dedicated bicycle and cargo bicycle parking; 30kph speed limit within Watson Estate and all construction traffic exit/enter through Church Road
- Concerns regarding impacts on air quality/emissions and recommendations in relation to same
- Lack of overall plan for wider area
- Recommendation to remove three-storey section to Block A1; reduction in height of Blocks A1 and C1, increased parking, omission of pedestrian entrance at Rockwinds, construction hours and boundary treatments
- Overshadowing and domination of properties in St. Matthias Wood and houses on Watson Road
- Impact on building line
- Wind channelling effects
- No concession to established pattern of development in the area
- Location of refuse points
- Queried proposed type of heating
- Parking for construction workers

#### Brackenbush Park/Elected Member submissions/Other submissions

Additional concerns raised in the submissions from residents of the above, not already raised above include:

- Queries how proposed development is addressing housing issues
- Development needs to be undertaken in sustainable way, which safeguards the existing virtues of the area
- Impacts on child safety

## 8.0 Planning Authority Submission

- 8.1. In compliance with section 8(5)(a) of the 2016 Act the planning authority for the area in which the proposed development is located, Dun-Laoghaire Rathdown County Council, submitted a report of its Chief Executive Officer in relation to the proposal. This was received by An Bord Pleanála on 19<sup>th</sup> May 2021. The report may be summarised as follows:

### Information Submitted by the Planning Authority

Details were submitted in relation to the pre-application consultations, site location and surrounding area, proposed development, planning history, inter-departmental reports, submissions/observations, summary of views of elected members, zoning/policy context and assessment. A summary of representations received was outlined.

- 8.2 A thorough and comprehensive report was submitted, which I shall refer to throughout this assessment. The report concludes as follows:

- Principle of housing development of higher density established on the site through extant permission ABP-301334-18
- Proposal represents a significant change in form and density to that previously permitted.
- Significant concerns regarding scale, massing, height, unit mix and form of a number of apartment block elements of the proposal, which would adversely impact on the character of the receiving environment and would be contrary to the provisions of Policy UD1 of the operative CDP
- Overall proposed density is noted, by virtue of the massing and density of

development proposed in the northern portion of the subject site, considers that this element of the scheme would represent overdevelopment of this portion of the site

- Proposal contrary to 'Objective A' zoning of the subject site, which seeks 'to protect and/or improve residential amenity' and that by virtue of its massing, design and proximity to subject site boundaries, the proposal would adversely impact on the amenities of existing adjacent properties by way of overlooking and overbearing appearance
- Concerns regarding future amenity value of proposed scheme due to layout of same including separation distances between apartment block buildings and those provided between proposed dwelling house units and apartment blocks on site
- Considered that proposed development would not accord with the provisions of SPPR4 of Sustainable Urban Housing: Design Standards for New Apartments Guidelines (2020) regarding dual aspect in that only 48% of proposed apartments within the scheme would comprise dual aspect units in lieu of a minimum provision of 50% dual aspect units required in a single scheme on a site in an intermediate/suburban location.

As such, the planning authority considers that the proposal should be refused for three reasons, briefly summarised as follows:

1. ...by reason for overall scale, height, massing, built form and the monolithic form of apartments blocks to Church Road in particular, fails to have regard to its surrounding context and will have detrimental impact on character of the surrounding area...considered to be contrary to Policy UD1 and Appendix 9 of the CDP and Urban Development and Building Height Guidelines...contrary to proper planning and sustainable development of the area.
2. ...site located on lands to which the 'A' land use zoning objective...applies.  
The proposed development, by reason of its for overall scale, massing, built form and its proximity to adjoining site boundaries would adversely impact on the amenities of existing adjacent properties by way of overlooking, and would be visually overbearing when viewed from existing adjacent properties. The proposed development would be contrary to the 'A' land use zoning



objective...would be seriously injurious to the residential amenities of the area...would depreciate the value of existing adjacent properties and, in the northern portion of the site in particular would represent a cramped built form and overdevelopment of the subject site. The proposed would be...contrary to provisions of CDP and to the proper planning and sustainable development of the area

3. ...by reason for overall scale, massing, layout and unit mix would represent an excessive density...would constitute overdevelopment of this site...would provide for insufficient average daylight factor (ADF) values for the proposed apartment units...would not accord with the provisions of SPPR4 regarding dual aspect apartment in intermediate/suburban areas. Furthermore, the proportion of one-bedroom units proposed would contravene the provisions of section 8.2.3.3(iii)...of the CDP. The proposed development would...result in a substandard level of residential amenity for future occupants...and would be contrary to the CDP and to the proper planning and sustainable development of the area.

Suggested conditions attached if the Board is minded to grant permission for the proposed development.

#### Summary of Inter-Departmental Reports

##### Drainage Division:

Following a process of engagement by the applicant and their consultants, the applicants has included in the application, an engineering report and drawings that generally satisfy the requirements of the Drainage Planning. Conditions attached

##### Transportation Planning Division:

Concerns raised in relation to level of car parking and circulation in basement car parks. Conditions attached

##### Parks and Landscaping Division:

No objections; conditions attached

##### Housing Department:

Condition attached

Environment Section:

No objections, subject to condition

Environmental Health Officer:

Acceptable, subject to conditions

8.3 The report includes a summary of the views of relevant Elected Members, as expressed at the Area Committee meeting held remotely on 15<sup>th</sup> April 2021 and are summarised below and shall be expanded upon further during the course of my assessment:

- Opposed to SHD process/maximising profit
- Increase in density over and above that previously permitted/inappropriate density/overdevelopment/all issues flow from density/over densification
- Inappropriate scale and height
- Drainage concerns- capacity; additional pressure; flooding concerns; groundwater concerns
- Dual aspect unit - question figure cited
- No retail proposed
- Universal access
- Tree removal
- Amenity- overlooking, overshadowing, loss of daylight and sunlight, noise from rock breaking
- Part V provision- additional bedspace allocation; does not achieve mixed tenure



- Impacts on Watson Estate in terms of traffic safety, safety of pedestrians/bicycle users, future traffic calming
- Impact of increased traffic in wider area, inadequate car parking, location of site relative to public infrastructure, prematurity pending determination of bus corridor
- Cumulative impacts of permitted/proposed development on Church Road

## 9.0 Prescribed Bodies

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

- Irish Water
- National Transport Authority (NTA)
- Transport Infrastructure Ireland (TII)
- Department of Culture Heritage and the Gaeltacht
- An Taisce
- Heritage Council
- An Comhairle Ealaíonn
- Health Service Executive
- Dun Laoghaire-Rathdown County Childcare Committee

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

Nature Conservation

Noted that the proposed development site consists largely of abandoned gardens overgrown with scrub, several fire damaged bungalows and a large derelict house 'Kylemore', formerly used as a medical clinic. Tree rows mainly of sycamores are present on the site, as well as a number of large standard ornamental trees such as cedars, some of which are to be retained. Eleven bird species which nest in trees or scrub were recorded from the site. Many trees on the periphery of the site are also to be retained and there will be additional boundary planting, which to some extent should compensate for the removal of existing trees.

A badger survey of the site in December 2017 found one abandoned probable main badger sett, and up to eight unused outlier or subsidiary setts. Several setts are to be retained on the southern boundary of the site. The EclA reports this situation unchanged in December 2021, but recommends that another badger survey should be carried out before the commencement of any development works on the site.

A bat activity of the site carried out in July 2015 identified bats of the three most commonly recorded species, common and soprano pipistrelles and Leisler's bat foraging over the site but identified no bat roosts. A survey of buildings and trees on the site for their potential of bat roosts in December 2017 found no evidence of the use of any of the buildings on the site as bat roosts, and because of their subsequent further dereliction and fire damage it is considered these buildings would even be less suitable as bat roosts now than they were then. Four trees to be removed from the site were found to have features of high potential to be used as bat roosts, up to another sixteen trees to be removed medium potential as bat roosts and four more low potential. The EclA therefore recommends various measures with regards to the monitoring and methodology of tree felling during site clearance to ensure the avoidance of injury to bats which might potentially be present. Again because of the lapse of time since the original bat activity and roost surveys, this document also recommends new activity and roosts surveys of the site before the commencement of any development works.

Conditions attached

### Irish Water

The applicant has engaged with Irish Water in respect of design proposal and has been issued a Statement of Design Acceptance for the development. Recommends grant of permission, subject to conditions.

### Transport Infrastructure Ireland (TII)

No observation to make.

## **10.0 Assessment**

10.0.1 I have had regard to all the documentation before me, including, *inter alia*, the report of the planning authority; the submissions received; the provisions of the Dun Laoghaire Rathdown County Development Plan 2016; relevant section 28 Ministerial guidelines; provisions of the Planning Acts, as amended and associated Regulations; together with the planning history of the site and wider area. I have visited the site and its environs. In my mind the main issues relating to this application are:

- Principle of Proposed Development
- Institutional Designation & Demand for Alternative Institutional Uses/Open Space/Open Character/Density and Material Contravention/Masterplan
- Design Approach/Height and Material Contravention
- Visual Amenity
- Residential Amenity including Proposed Residential Standards
- Traffic and Transportation/Parking and Material Contravention/Connectivity
- Drainage and Flood Risk
- Other Matters
- Material Contraventions/PA Report
- Appropriate Assessment Screening
- Environmental Impact Assessment Screening

10.0.2 The attention of the Bord is drawn to the fact that a Material Contravention Statement has been submitted with the application. It deals with the matters of (i) building height (ii) density (iii) car parking (iv) separation distances (v) dual aspect and (vi) unit mix. I shall deal with each of the matters individually below, but as a summary I consider that none of the matters addressed in the Material Contravention Statement above represent a material contravention of the operative County Development Plan.

## 10.1 Principle of Proposed Development

### Context

10.1.1 Having regard to the nature and scale of development proposed, namely an application for 255 residential units located on lands which are located with the zoning objective 'A', in which residential development is 'permitted in principle', I am of the opinion that the proposed development falls within the definition of Strategic Housing Development, as set out in section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016.

### Principle of demolition of proposed dwellings

10.1.2 The proposed works include for the demolition of No. 43 Watson Road, No. 66 Watson Drive, Rockwinds, Woodlawn, together with outbuildings/extensions to Kylemore House and its associated gate lodge (both of which are proposed Protected Structures). These demolitions are considered necessary to facilitate the proposed development works. It is noted that No. 43 Watson Road is a vacant, single storey detached dwelling. It is proposed to demolish this property to provide a new vehicular, pedestrian and bicycle link into the northern portion of the subject site. The demolition of No. 43 Watson Road will also allow for the provision of a new detached single storey dwelling at this location. No. 66 Watson Drive is a vacant, semi-detached dwelling and its demolition will allow for the provision of a new pedestrian and bicycle link between the proposed development and Watson estate, in addition to facilitating service connections. Rockwinds and Woodlawn are detached dwellings on large plots- they are described as being derelict and have been vacant for a number of years. It is noted that the previously fire-damaged Smallacre, has been demolished. The planning authority are generally satisfied with regards the proposed demolition works cited above and state that the principle of the



proposed demolitions has been established under the extant permission ABP-301334-18.

10.1.3 I note that a submission has been received from the owners of the property, No. 68 Watson Drive expressing strong concerns regarding possible impacts on their property as a result of the proposed demolition of No. 66, to which they are attached. While I acknowledge these concerns, I note that the extant permission on this site included for the demolition of No. 66 Watson Drive and the Bord was satisfied in this regard. I note that section 6.5 of the submitted Outline Construction & Demolition Waste Management Plan, in addition to submitted engineering drawings deal with the matter of works to the party wall of No. 68 Watson Drive. I am generally satisfied in this regard and consider that the matter could be adequately dealt with by means of condition.

10.1.4 The proposed outbuildings/extensions to Kylemore House are all later additions to the structure and are considered to have no significant merit. It is proposed to demolish an existing extension to the gate lodge associated with Kylemore House to allow for a new extension to the rear which, combined with amendments to the original structure, will provide a detached house with existing access via Church Road. The proposed works to the gate lodge are detailed in the submitted Architectural Heritage Impact Assessment and drawings. The Architectural Heritage Impact Assessment confirms that the extension which is to be demolished is of substandard quality, damaged and in need of upgrading. Matters of architectural heritage are dealt with below.

10.1.5 The proposed demolition of the above properties, with the exception of No. 43 Watson Road (as it was not included in the previous proposal) was considered acceptable in the extant permission ABP-301334-18. I note that the fire-damaged detached dwelling at Smallacre, Church Road has previously been demolished and its demolition does not form part of this current application. I am of the opinion that the above demolitions are accepted in principle on these lands. I do not have issue with the demolition of the additional property, No. 43 Watson Road. The planning authority concur that the principle of demolition of said properties has been established under the extant permission ABP-301334-18. I am satisfied in this regard.

#### Principle of proposed development

- 10.1.6 It is noted that there is an 'INST' designation on the Kylemore lands (the southern portion of the site). I am of the opinion that the proposal is acceptable in principle with the zoning objective and while the institutional land designation is noted, it does not override the underlying residential zoning objective. The planning authority considers that the principle of a residential infill development on the subject lands, subject to an institutional objective is acceptable, subject to the relevant provisions of the operative County Development Plan, having regard to the extant permission on the site, permitted under ABP-301334-18. I would concur with this assertion. I shall deal with the 'INST' designation in the following section. The lack of retail provision on the site, raised as an issue by some of the Elected Members, is considered acceptable in this instance given the residential zoning of the lands and the proximity of the site to other retail centres. There was no retail provision on the extant permission on the site, ABP-301334-18. The planning authority have not raised concern with this matter.
- 10.1.7 I note the policies and objectives within Rebuilding Ireland – The Government's Action Plan on Housing and Homelessness and the National Planning Framework – Ireland 2040 which fully support and reinforce the need for urban infill residential development such as that proposed on sites in close proximity to quality public transport routes and within existing urban areas. The NPF also signals a shift in Government policy towards securing more compact and sustainable urban development within the existing urban envelope. It is recognised that a significant and sustained increase in housing output and apartment type development is necessary. It recognises that at a metropolitan scale, this will require focus on underutilised land within the canals and the M50 ring and a more compact urban form, facilitated through well designed higher density development.
- 10.1.8 I am of the opinion that given its residential zoning, the delivery of residential development on this prime site, in a compact form comprising well-designed, higher density units would be consistent with policies and intended outcomes of the NPF and Rebuilding Ireland – The Government's Action Plan on Housing and Homelessness. I therefore consider the proposal to be acceptable in principle. The planning authority concurs that the proposed development is acceptable in principle, subject to assessment of other matters.

## 10.2 Institutional Designation & Demand for Alternative Institutional Uses/Open Space/Open Character/Density/Masterplan

### Context

- 10.2.1 The lands at Kylemore (southern portion of site as outlined in red) have an 'INST' symbol which is listed on the Map Index under 'Other Objectives' and is separate to the 'Use Zoning Objectives'. This 'INST' reference is an abbreviation for 'Institutional Lands' designation. The 'INST' designation seeks 'to protect and/or provide for Institutional Use in open lands'.
- 10.2.2 In terms of third party submissions received, I note that a small number of submissions state that the proposal is contrary to the institutional objective that pertains to the lands. I do not concur with this opinion, for the reasons discussed below. One submission states that no masterplan is submitted, as required by the operative County Development Plan. That is incorrect and I draw the attention of the Bord to the fact that a masterplan has been submitted (see Drg. No. 1126-MDO-ZZ-ZZ-DR-A-01-004 (Masterplan)). The matter of the masterplan is dealt with further below. It is confirmed by the planning authority that the 'INST' designation pertains only to the lands indicated for the former Kylemore Clinic grounds (namely the southern element of the site). The planning authority state that having regard to the lack of demand for institutional uses on this site, together with the extant permission on the site for an apartment residential scheme, the principle of a residential infill development on the subject lands, which are subject to the institutional objective is acceptable, subject to compliance with the relevant provisions of the operative County Development Plan.
- 10.2.3 From an examination of the Dun Laoghaire- Rathdown County Development Plan, it is my opinion that the main elements of the institutional designation may be summarised as follows and I shall deal with each separately below:
- Is there a demand for an alternative institutional use
  - 'INST' designation and open space requirements- open space requirement of 25% of total site area
  - Open character and/or recreational amenity being retained



- Average net densities of 35-50, with certain instances where higher densities will be allowed
- Submission of masterplan

10.2.4 In the interests of clarity, I reiterate that I am of the opinion that it is clear from the Development Plan mapping that the 'INST' zoning in this instance pertains only to the lands associated with Kylemore Clinic, namely the southern portion of the site. A reasonable interpretation would be that this 'INST' designation clearly does not pertain to the northern portion of the site, giving that it was historically not associated with the Kylemore Clinic and instead contained suburban housing on individual plots that have now been amalgamated to form one larger plot. I again draw the attention of the Bord to the fact that the redevelopment of this site for residential use was accepted under the extant permission on site, ABP-301334-18.

#### Demand for alternative institutional use

- 10.2.5 Policy RES5 of the operative County Development Plan states that 'the Council will endeavour to reserve the use of the lands for other institutional uses, especially if the site has an open and landscaped setting and recreational amenities are provided. Where no demand for an alternative institutional use is evident or foreseen, the Council may permit alternative uses subject to the zoning objectives of the area and the open character of the lands being retained'. Section 8.2.3.4(xi) of the Plan is noted which states that where no demand for an alternative institutional use is evident or foreseen, the Council may permit alternative uses subject to the area's zoning objectives and the open character of the lands being retained.
- 10.2.6 With regards demand for an alternative institutional use, it is stated in the documentation that the site and buildings were used by the Kylemore Clinic charity as a care facility from 1947 to 2009 when the premises was vacated and the charity moved to a new, purpose-built facility in Rathfarnham. Since this move, there has been no demand for institutional uses at the subject site for a number of reasons including its restricted size and requirements to retain the existing house. Of critical importance, is the fact that the Bord accepted the principle of the redevelopment of these lands for residential use under the extant permission, ABP-301334-18.
- 10.2.7 The applicants contend that the proposed residential use of Kylemore and its attendant grounds will ensure the continued use of the building and thereby protect



its special character and setting. I would not disagree with this assertion. From the information on file, I am of the opinion that it can be reasonably inferred from the documentation before me that there is no demand for an alternative institutional use being evident or foreseen on the lands. I am therefore satisfied in principle with its appropriate development. This was also accepted by the Bord in the extant permission on the overall lands, ABP-301334-18.

'INST' designation and open space requirements

- 10.2.8 Sections 2.1.3.5 and 8.2.3.4(xi) of the operative County Development Plan state that 'A minimum open space provision of 25% of the total site area (or a population based provision in accordance with Section 8.2.8.2 whichever is the greater) will be required on Institutional Lands'. In addition, RES5 states that 'A minimum open space provision of 25% of the total site area (or a population based provision in accordance with Section 8.2.8.2 whichever is the greater) will be required on Institutional Lands. This provision must be sufficient to maintain the open character of the site with development proposals structured around existing features and layout, particularly by reference to retention of trees, boundary walls and other features as considered necessary by the Council (Refer also to Section 8.2.3.4(xi) and 8.2.8)'. This point is reiterated again in section 8.2.3.4(xi) of the operative County Development Plan. I note that the operative County Development Plan refers to "open space" as comprising public and/or communal open space. I note that some third party submissions contend that the figure of open space cited within the documentation is inaccurate and that the figure of 25% open space is not being provided within the development.
- 10.2.9 I refer the Bord to section 2.1.5 of the submitted Statement of Response in this regard. I note Table 2.1 which illustrates the open space provision of the overall site, together with that of the southern element (to which the 'INST' designation pertains) with respect of Policy RES 5. This illustrates that the open space provision for the southern portion of the site (to which the 'IST' designation pertains) is 29%. This is considered to be in compliance with RES5 in this regard.

Table 3:

	<b>Southern Portion</b>	<b>Overall</b>
Site Area (sq. m)	12606.83	23,991.5 (excluding DLR lands)
Open space provision (sq. m)(public & communal)	3738.0	6855
% of area	29%	28.6%

10.2.10 In addition, I note Table 2.2 of the submitted Statement of Response, where the calculations for public open space provision per person are set out. The operative County Development Plans sets out the population based provision of open space at 15sq.m-20sq.m per person. The calculations per person for the southern portion of the site are as follows:

Table 4:

<b>Bedroom</b>	<b>Calculation</b>	<b>15 sq. m</b>	<b>20 sq.m</b>
1 bed	26x1.5 persons=39	585	600
2 bed	50x1.5 persons=75	1125	1500
3 bed	6 x3.5 persons=21	315	420
<b>Total Requirement for Southern Portion</b>		<b>2025</b>	<b>2520</b>

10.2.11 I note a slight error in the submitted calculations for the southern portion of the site, which calculates  $26 \times 1.5 = 30$  (this is incorrect and should read 39). Another error relates to figure calculated for 1 bed, 20 sq. m which should read as 600 square metre requirement as opposed to 780 square metres stated. However, I note that these discrepancies do not have implications for the outcome of my recommendation, given that in excess of the required figure of public open space is provided for in the southern area of the site.

10.2.12 In accordance with Section 8.2.8.2 of the operative County Development Plan the open space requirement for the southern element of the site is between 2,025sq.m –

2,520sq.m. The public open space proposed for the southern element of the site is stated as being 3,738 square metres and therefore exceeds the maximum requirements in this regard. I also draw the attention of the Bord to the fact that the 25% requirement for open space pertains only to the southern element of the site, namely that with the 'INST' designation, while for the remainder of the site (namely the northern portion), the Development Plan sets out a 10% requirement. In terms of the overall site, in accordance with Section 8.2.8.2 of the Development Plan the requirement is 6,307.5sq.m – 10,930sq.m. (taking into account the aforementioned error). The public open space proposed for the overall site is 6,855sq.m (28%) and therefore exceeds the minimum requirements.

10.2.13 Having regard to the above, I consider that the proposal meets the Development Plan requirement of 25% open space requirement for institutional lands and that the proposal is consistent with the provisions of the 'INST' designation. I am also satisfied that the proposal meets the Development Plan requirements for public open space for the remainder of the site. The planning authority are also satisfied in this regard. Good quality open space is proposed. Two public plazas, which are envisaged as high activity spaces, will provide a focal point for both the north and south portions of the site, while the proposed parkland area to the south-east of the site will maintain the sylvan character and setting of the existing Kylemore House. In total, it is stated that 28% of the overall site is comprised public/communal open space. I am satisfied in this regard.

Open character of lands and/or recreational amenity being retained

10.2.14 With regards to the open character of the lands and/or recreational amenity being retained, Policy RES5: Institutional Lands of the operative County Development Plan states that 'Where distinct parcels of land are in institutional use (such as education, residential or other such uses) are proposed for redevelopment, it is Council policy to retain the open character and/or recreational amenity of these lands wherever possible, subject to the context of the quantity of provision of existing open space in the general environs'.

10.2.15 In this instance, the lands would appear to have historically offered very little in the way of recreational amenity, given the use of the site. This remains the case today and the character of the lands, in their present condition, adds little to the area. They



are currently fenced off from the general public and inaccessible. The entirety of the site is overgrown. I am satisfied that the development of these lands would not result in any net loss of recreational amenity for the wider area.

10.2.16 The question therefore arises as to whether the open character of the lands is being retained in this proposal. As stated above, I am satisfied that in terms of open space provision, that the 25% requirement of open space is being achieved in quantitative terms. I also consider that the open space being provided is of a high quality that would be of benefit to both future occupants and the wider community.

10.2.17 Overall, I am satisfied that the open nature of these institutional lands is being sufficiently retained. The layout of the proposal is such that a parkland type setting will be created. The 'INST' designation is a significant constraint on the site and in my mind, it has been appropriately addressed in terms of retaining the open setting/character of the lands. The removal of some trees from the site, which has been referenced in some of the third party submissions received, is regrettable and unwelcome, in particular given the fact that there is an objective to preserve trees and woodland on the lands. However, the site currently is very well screened on all boundaries. The Parks Department of the planning authority are generally satisfied, subject to conditions. Many of the remaining trees are being retained, reinforced with further planting/landscaping and I am generally satisfied in this regard. I acknowledge that the idea of 'open character' is subjective and means different things to different people. This element of the site contains two substantial blocks, each with a relatively large footprint. In my opinion, the open space provision as currently proposed does contribute to the open character of the site being retained. The footprint of the proposal is acceptable in my opinion. The opening up of the site as one enters up the entrance driveway, with the public open space clearly visible surrounding Kylemore House is considered to be an appropriate rationale for the development of the site and contributes to a sense of openness on these 'INST' lands.

10.2.18 To conclude this point, I am satisfied that the open character of the site is being retained; the recreational amenity value of the site is being improved by virtue of the public open space provision and I am satisfied that the quantum of open space proposed in this instance complies with Development Plan requirements in this regard.



### Density and Material Contravention

10.2.19 The attention of the Bord is drawn to the fact that the issue of density has been raised in many of the third party submissions received, with many contending the proposed density to be excessive. The planning authority states that the density proposed would exceed the provisions of the operative County Development Plan regarding residential densities identified under RES3 and RES5. They consider the overall density proposed to be excessive at this location, but have particular concerns regarding the density proposed in the northern portion of the site. It is noted that the extant permission on site permitted an overall density of 43 units/ha (ABP-301334-18). A more recent SHD decision on nearby Churchview Road permitted a density of 141 units/ha (ABP-304823-19). Overall, the density proposed in this instance is 106 units/ha- 152 units/ha in the 'northern' portion of the site and 65 units/ha in the 'southern' portion. While the planning authority state that they consider the density at the northern portion of the site to be excessive at 152 units/ha and to represent overdevelopment of the site, they do not state that they consider this density to be a material contravention of the operative County Development Plan.

10.2.20 The applicants have addressed the matter of density in their Material Contravention Statement. They did not explicitly state that the proposal represents a material contravention in relation to density, but state that it 'may be considered that the proposed development represents a material contravention to the Development Plan'. They reference Policy 8.2.3.1 of the operative County Development Plan in this regard, which states that 'higher densities should be provided in appropriate locations. Site configuration, open space requirements and the characteristics of the area will have an impact on the density levels achievable'. I consider this to be an appropriate location for higher density development, of the scale proposed.

10.2.21 The applicants also reference Policy RES3 of the County Development Plan which states that "Where a site is located within circa 1 kilometre pedestrian catchment of a rail station, Luas line, BRT, Priority 1 Quality Bus Corridor and/or 500 metres of a Bus Priority Route, and/or 1 kilometre of a Town or District Centre, higher densities at a minimum of 50 units per hectare will be encouraged." The applicants contend that the site is little over a kilometre from a DART station and the Development Plan's zoning map identifies Church Road as a proposed Quality Bus

Corridor/Bus Priority Route, with a long term road upgrade proposal from Cherrywood to Dún Laoghaire, which will provide enhanced connections with the Luas. It is highlighted to the Bord that the proposed development has been set back to provide a corridor to facilitate the future provision of these planned road upgrades by the planning authority. The planning authority have raised issue with the distance cited in the applicants' documentation regarding proximity to DART/LUAS stations. While I would agree that the site has good transport facilities, compared to other areas, with more facilities planned, I too would question that stated distances to DART/LUAS stations as set out by the applicants in their documentation. I would concur with the planning authority that while the subject site is located approximately 0.6km from the nearest bus stops, it is approximately 2km to the DART at Killiney (28 min walk) as opposed to the stated 1km and in excess of 2.5km to the nearest LUAS stations (35min walk to Brides Glen Luas station) using existing infrastructure. I would concur with the planning authority when they state that the proposal is not within circa 1 kilometre pedestrian catchment of a rail station or Luas line. However, the proximity to existing and planned bus infrastructure is noted and the site has good accessibility. It also has access to the wider public transport network including LUAS and DART, in addition to quality cycle/pedestrian links in the immediate vicinity. I consider that transport facilities in the vicinity are good and that the proposal is in compliance with RES5 in this regard.

10.2.22 In addition, the operative County Development Plan recognises that higher densities should be provided in appropriate locations. Section 8.2.3.2 recognises that minimum residential densities should be 35 dwellings/ha and that significant parts of the existing built-up area of the County are, however, readily accessible to public transport corridors – QBCs, Luas, DART. In these circumstances Government guidance is to provide densities at higher than 50 dwellings per hectare. Again the proximity of the site to existing bus services is noted, as is its proximity to the planned Church Road public transport corridor.

10.2.23 Specifically in relation to the development of Institutional Lands, I note Policy RES5 of the Plan states that *'In the development of such lands, average net densities should be in the region of 35 - 50 units p/ha. In certain instances higher densities will be allowed where it is demonstrated that they can contribute towards the objective of retaining the open character and/or recreational amenities of the*

*lands*'. This is again reiterated in section 2.1.3.5 of said Plan. I am of the opinion that the open character of the land is being retained and therefore higher densities are allowable. I am therefore of the opinion that the proposal is in compliance with Policy RES5 of the operative County Development Plan.

10.2.24 Section 8.2.3.2(ii) of the operative County Development Plan states that in relation to residential density, 'In general the number of dwellings to be provided on a site should be determined with reference to the Government Guidelines document: 'Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities' (2009)'. These Guidelines are also referenced in section 8.2.3.3(i) of the Plan in relation to design standards, which states that all apartment development shall accord with or exceed all aspects of Government Guidelines in relation to residential development. Reference is made to the aforementioned 'Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities' (2009). In this regard, I highlight section 5.10 of these aforementioned Guidelines, which relates to Institutional lands. This states that in the event that planning authorities permit the development of such lands for residential purposes, it should then be an objective to retain some of the open character of the lands, but this should be assessed in the context of the quality and provision of existing or proposed open space in the area generally. In this instance, as stated elsewhere within my assessment, I consider that the open character of the lands is being retained and that a high quality proposal in terms of proposed open space has been put forward. There is also good quality public open space existing within the wider area. Section 5.10 of the aforementioned Guidelines continues by stating that in the development of such lands, average net densities at least in the range of 35-50 dwellings per hectare should prevail and the objective of retaining the open character of the lands achieved by concentrating increased densities in selected parts (say up to 70 dph). In this instance, the proposed density in the southern area of the site, to which the 'INST' designation pertains, is 65 units/ha which is well within the stated 70 dph range. Finally, this section of the Guidelines states that in the absence of an LAP, any application for development of institutional lands should be accompanied by a masterplan outlining proposals for the entire landholding. As is dealt with below, a masterplan of the entire landholding has been submitted with the application documentation. Having regard to the above, I am satisfied that the



proposed development is in accordance with section 5.10 of the aforementioned 'Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities' (2009) in relation to institutional land and is therefore in compliance with sections 8.2.3.3(i) and 8.2.3.2(ii) of the operative County Development Plan in this regard.

10.2.25 Having regard to all of the above, I therefore do not consider the proposal to be a material contravention of the operative County Development Plan in relation to density. The northern portion for which the 'INST' designation does not apply is considered to be in compliance with RES3 of the County Development Plan as the site is located in close proximity to existing bus services and a proposed Bus Priority Route, which encourages higher densities at a minimum of 50 units per hectare. I have had regard to the amenities of existing established residential communities and consider that the proposed development is in compliance with RES4 of the operative County Development Plan in relation to densification of existing built-up areas. I again reiterate that the planning authority does not state that the proposal represents a material contravention in relation to density. I note that Policy RES5 allows for densities higher than 35-50 units/ha in circumstances where the open character of 'INST' lands is being retained. I am not unduly concerned with a density such as that proposed on the subject lands with 'INST' designation, given that the open character of the lands is being retained and a quality development is proposed in terms of residential amenity.

10.2.26 To conclude this point, I note that the matter of density has been addressed in the submitted Material Contravention Statement, although the applicants do not explicitly state that the proposal represents a material contravention in this regard. The planning authority have not stated that the proposal represents a material contravention in relation to density. I also consider that the proposal does not represent a material contravention in relation to density. The matter of density has been raised by third parties. As a precautionary approach and as the applicant has addressed the matter of density in the Material Contravention Statement, the Bord may wish to invoke section 37(2)(b) of the of the Planning and Development Act 2000, as amended, in particular section 37(2)(b)(i) and (ii), due to strategic nature of application and conflicting policies within the operative County Development Plan.

Masterplan



10.2.27 Section 8.2.3.4(xi) of the operative County Development Plan further states that *'In order to promote a high standard of development a comprehensive masterplan should accompany a planning application for institutional sites. Such a masterplan must adequately take account of the built heritage and natural assets of a site and established recreational use patterns. Public access to all or some of the lands may be required. Every planning application lodged on institutional lands shall clearly demonstrate how they conform with the agreed masterplan for the overall site. Should any proposed development deviate from the agreed masterplan then a revised masterplan shall be agreed with the Planning Authority'*. In this regard, Drg. No. 1126-MDO-ZZ-ZZ-DR-A-01-004 (Masterplan) is included in the documentation as the masterplan for the subject site. This masterplan includes the entirety of the former Kylemore Clinic lands as well as the remainder of the application site to ensure a comprehensive plan for the future development of the overall site. Public access to the lands is being provided for. It is acknowledged that the subject site comprises the entirety of the 'INST' designated lands at this location and the submitted masterplan is therefore a site layout of the development, as proposed. I am generally satisfied with the information contained therein and consider that it satisfies the requirements of the operative County Development Plan in this regard.

### **10.3 Design Approach/Height and Material Contravention**

#### Design Approach

- 10.3.1 The proposal provides for 255 residential units in six blocks, ranging in height up to six storeys. The site is divided into two distinct elements. The southern element contains Kylemore House and gate lodge and a relatively lower density form of development is proposed, reflecting its historic nature and the desire to ensure an open nature is being retained, as per the institutional designation pertaining to this element of the site. This is described as the parkland quarter in the submitted documentation. Two apartment blocks are proposed in this element of the site with maximum heights proposed being five storeys. Basement parking is proposed under Block C2. A substantial area of public open space is proposed to the south of the existing Kylemore House. Kylemore House (House) and Kylemore Lodge (Gate Lodge) are included in the Draft Dun Laoghaire Rathdown County Development Plan 2022 as proposed Protected Structures under RPS No. 2124 and RPS 2125 respectively. The proposed development includes the provision of four apartments

within Kylemore House, together with residential amenity facilities and the renovation/extension of the gate lodge into a residential unit. Similar type works were permitted to Kylemore House and gate lodge in the extant permission on site (ABP-301334-18) although six residential units were permitted in Kylemore House, while four are now proposed. At that time, the subject structures were not listed as proposed Protected Structures. It is considered that the principle that the renovation/extension and conversion of these structures has been accepted in principle under the extant permission on site and the planning authority have not raised concern in this regard.

- 10.3.2 The northern portion comprises the higher density element of the proposal, with direct frontage onto Church Road- described as the urban quarter in the submitted documentation. In the main, the northern portion comprises four blocks, each stepping down from a maximum six storeys in height, with a new public plaza proposed. Within this portion of the site are also a detached dwelling (single storey) and a terrace of dwellings (two/three storey). Ground floor units at ground floor level to Church Road will enliven this stretch of roadway and improve the interface from that existing. Vehicular movements are restricted, basement parking is proposed under Blocks A1 and B1.
- 10.3.3 Almost all of the third party submissions received raised concerns regarding the scale and massing of the proposed development. Some consider it to be piecemeal, backland development that represents substantial overdevelopment of the site. They note the level of development differs from that previously permitted on the site. This has also been noted by the planning authority and they recommend refusal of permission for the proposed development. Their first recommended reason for refusal states that by reason of overall scale, height, massing, built form and the monolithic form of apartment blocks to Church Road in particular, the proposal fails to have regard to its surrounding context and will have detrimental impact on character of the surrounding area. The matter of context and character is dealt with under the 'Visual Impact' section below.
- 10.3.4 At the outset, I note that this is a relatively sizeable parcel of zoned, serviceable land within an established urban area. The site is within walking distance of Killiney, Sallynoggin and Ballybrack and their associated services and facilities. It has the potential to create its own character and to create linkages to the surrounding areas.

Currently, its boundary to Church Road is currently quite defensive and adds little to the visual amenity of the area with a 2m high wall for a continuous extent, with the exception of openings for existing access points. I would consider the location of the site to be somewhat evolving in nature- a changing context- and I would anticipate that over time, similar amalgamations of individual sites into larger parcels of land will take place. I do not consider this to be a negative. I consider that the proposed development can sit side-by-side with the more traditional housing in the locality, giving benefit to both typologies. The proposed development will provide increased diversification of housing typology in the area which is currently dominated by self-contained dwelling houses.

10.3.5 The proposed design approach is contemporary in nature and a limited palette of materials is proposed, providing visual continuity between the blocks. A high quality proposal is put forward in this regard. I don't consider the proposal to be monolithic in nature. The proposal will introduce new heights, built form and streetscape into the area, but I do not consider this to be a negative, given the quality of the scheme put forward. While I acknowledge that there is an increase in intensity of development, over and above that previously permitted on the site, I am of the opinion that the site has the capacity to generally absorb the level of development proposed. The Bord did not consider the amalgamation of these sites to represent piecemeal development in the previous application on the site, nor do I in this current application. The fact that a masterplan has been submitted for the lands, as required under the operative County Development Plan is also noted.

10.3.6 I do not consider it to be overdevelopment of the site, nor do I consider the site to be backland in nature. Some elements of the proposal are located behind the properties fronting onto Watson Road and Drive, however the site has direct access onto Church Road. New direct accesses into the Watson estate are also proposed. The appropriate development of this site is welcomed. In my view, the proposal represents an appropriate scale of development and the subject site is capable of accommodating a scheme of the nature and scale proposed, having regard to national policy, the site size, the nature of the development and the area's changing context. It may be argued that the existing situation represents an unsustainable use of zoned land within the Metropolitan area. I note that a density of 141 units/ha was permitted on nearby Churchview Road SHD (ABP-304823-19). I would not be



unduly concerned with an overall density of 106 units/ha, as proposed, given the locational context of the site, close to good public transport links. The density is comparable with recently permitted SHD development in the vicinity. Both local and national policy seeks to encourage development at key locations particularly close to public transport nodes. The policies and objectives of the NPF are noted in relation to the delivery of compact urban growth at appropriate locations.

10.3.7 The planning authority considers that the northern portion of the site in particular represents a cramped built form. If the Bord was of a similar opinion, I consider that the omission of the proposed terrace of dwellings would provide a less dense scheme at this location. It may also alleviate some of the concerns of third parties and the planning authority in this regard. I am not overly concerned in this regard, however if the Bord considered otherwise, the matter could be adequately dealt with by means of condition. The matter of scale and massing has been addressed in proposal by breaking up the blocks, in terms of height and setbacks and also in terms of elevational treatment and materials. I am generally satisfied in this regard.

10.3.8 Section 3.2 of the Urban Development and Building Heights Guidelines sets out criteria for assessing the scale of the development with regard to the city, street and site level which includes proximity to high frequency public transport; integration/enhancement of the character and public realm of the area; response to overall natural and built environment; architectural response; urban design; improved legibility; mix of uses and building typologies. Additional specific assessment may also be required for issues including daylight and sunlight; microclimate; communication. Having regard to the information outlined above it is my view, that the proposed development would be in compliance with SPPR3, having specific regard to the high-quality design and layout of the scheme and its contribution to the consolidation of the urban area.

#### Height

10.3.9 The attention of the Bord is drawn to the fact that all third party submissions received have raised concerns regarding the height of the proposed development. Many consider the heights proposed to be, *inter alia*, inappropriate for this location; to represent overdevelopment of the site; to negatively alter the character of the area and to be visually dominant and overbearing. The planning authority in their Opinion



have raised serious concerns in relation to the height of the proposed development and this is reflected in their first reason for refusal, which states that the proposal by reason of its overall scale, height, massing, built form and the monolithic form of apartment blocks, to Church Road in particular, fails to have regard to its surrounding context and will have a detrimental impact on the character of the surrounding area. They continue by stating that the proposal is considered to be contrary to Policy UD1 and Appendix 9 (Building Height Strategy) of the operative CDP and to the Urban Development and Building Heights, Guidelines for Planning Authorities and would therefore be contrary to the proper planning and sustainable development of the area.

- 10.3.10 The proposal ranges in height from single storey up to six storeys over basement level. The Bord is referred to section 4.1 of the submitted Design Statement which gives visual representation of proposed buildings heights relative to those existing into the immediate vicinity of the site. The proposed heights are outlined as follows:

Table 5:

Block	Height
Block A1- northern portion	3-6 storeys
Block B1-northern portion	3-6 storeys
Block C1- northern portion	3-5 storeys
Block D1- northern portion	2-5 storeys
Block A2- southern portion	4-5 storeys
Block C2- southern portion	2-4 storeys
Terraced houses- northern portion	3 storeys
Detached dwelling- northern portion	Single storey
Kylemore House & gate lodge	Heights unchanged

- 10.3.11 It is noted that the maximum height previously permitted under ABP-301334-18 was four storeys in height, so the current proposal represents a two-storey

increase over and above that previously permitted. The scale of development has obviously increased also and this is acknowledged. In terms of overall height, I further note that the only two blocks which are six storeys in height are those fronting onto Church Road, with each block stepping down to three storeys nearest their boundary with adjoining properties. Given the overall width of Church Road, with a generous grass verge, footpath and cycle path on both sides, I am confident that the height as proposed onto Church Road can be accommodated. This will result in a change of context along Church Road but this is not necessarily a negative and I consider that the proposal can be accommodated without detriment to the residential or visual amenities of the area. Heights step down within the overall site to reflect the site constraints in terms of existing residential properties and the historic house and gate lodge. The design rationale is considered acceptable. There will be a change in outlook for many of the properties in the vicinity and given the urban/suburban nature of the location, this is not unexpected.

10.3.12 The planning authority state that the site is located within a 'Residual Suburban Area not included within Cumulative Areas of Control' and that a general recommended height of two storeys will apply in such areas (section 4.8 of the Building Height Strategy) with apartment or town-house type developments limited to 3-4 storeys in appropriate locations. I note that Appendix 9 of the operative CDP also references that the development of larger greenfield sites may be appropriate areas for increased height. They also state that development of such sites should be guided by some form of masterplan and I again draw the attention of the Bord that a masterplan has been submitted with the application documentation. The County Development Plan acknowledges that there are instances where upward or downward modifiers may be applied by up to two floors (see section 4.8.1 and 4.8.2 of Appendix 9 of CDP). In this instance, the site area is in excess of 0.5 hectares, therefore able to create its own character/context; an historic property is being retained/upgraded in the form of Kylemore House and gate lodge hence a planning gain and the proposal will have urban design benefits in terms of softening the streetscape of Church Road, providing new public open spaces for the wider community and creating new pedestrian links through to Watson estate and beyond. I also note an SHD application on nearby Churchview Road (ABP-304823-19) where building heights up to seven storeys with a density of 141 units per hectare was

permitted by An Bord Pleanála. It is therefore considered that the Upward Modifiers have been met for the proposed 6 storey blocks. I would concur with the planning authority when they state that given the distances to existing public transport links, the site could not be considered to be within an 'area of exceptional public transport', as has been put forward by the applicants in their Material Contravention Statement. However, I do note the existing bus services in proximity to the site and the planned QBC along Church Road, as identified in the Development Plan maps. In terms of downward modifiers, I consider that generally the proposal will not have undue impacts in terms of overlooking, overshadowing nor does the proposal represent excessive bulk or scale as the higher blocks are concentrated away from existing residential properties and front onto Church Road, a wide road which has capacity to absorb a development of the height and scale proposed.

10.3.13 The planning authority raise particular concern in relation to the proposed four-storey elements of Block D1 and C2 relative to the existing residential development adjoining to the west; to the four storey element of Block D1 relative to properties on Church Road and to the five-storey element of Block A2 relative to properties within St. Matthias development. Given the separation distances involved, together with the orientation of the site and the design solution proposed, I am generally satisfied in this regard. The site is very well screened and much of the existing screening is being retained, supplemented with additional planting. The site is not located within an Architectural Conservation Area. There are no strategic views and prospects being affected. There is no particular planning objective pertaining to the site in terms of need to provide particular types of housing and the area is not designated as being of particular character. It is an established suburban area. I therefore consider that the downward modifiers do not apply in this instance.

10.3.14 I note that most blocks have varying heights, stepping down closest to boundaries. I also note the level changes across the site and with the wider area. There is in excess of a 5 metre level difference from the NW to the SE corner of the site. These level changes, and that with adjoining properties have been incorporated into the design and layout. I am of the opinion that the height as proposed is considered acceptable in this context- in an area of changing character- and I consider that the proposal if permitted would not negatively impact on the character or visual amenities of the area. I therefore consider that the proposal is not contrary



to Appendix 9 of the operative County Development Plan and is not a material contravention of same. Having regard to the Guidelines on Urban Development and Building Heights, I am satisfied that the proposed development represents a reasonable response to its context and is stepped down at site boundaries to reduce impacts on adjacent properties.

- 10.3.15 The planning authority have also raised concerns with regards compliance with Policy UD1 of the operative County Development Plan. Policy UD1 relates to urban design principles and states that *'It is Council policy to ensure that all development is of high quality design that assists in promoting a 'sense of place'. The Council will promote the guidance principles set out in the 'Urban Design Manual – A Best Practice Guide' (2009), and in the 'Design Manual for Urban Roads and Streets' (2013) and will seek to ensure that development proposals are cognisant of the need for proper consideration of context, connectivity, inclusivity, variety, efficiency, distinctiveness, layout, public realm, adaptability, privacy and amenity, parking, wayfinding and detailed design.* Having examined the proposal before me, I am generally satisfied that the proposal is compliance with the above Policy UD1.

Material Contravention in relation to height

- 10.3.16 The applicants have addressed the matter of building height within the submitted Material Contravention Statement. While the applicants do not explicitly state that the proposed development materially contravenes the operative County Development Plan in relation to height (they state that 'it may be considered that the proposed development represents a material contravention to the Development Plan'), they do set out a justification for same in their Material Contravention Statement, referencing national policy in this regard. It is noted that the planning authority do not explicitly state that the height as proposed materially contravenes the building height objectives of the County Development Plan.

- 10.3.17 While I have stated above that I consider that the proposal does not represent a material contravention of the operative County Development Plan in terms of height, I am cognisant of the fact that this matter has excited public interest and has been raised in all of the third party submissions received. The matter of height has also been raised as a matter of concern by the planning authority, although they do



not state that the proposal represents a material contravention of the Plan. The applicants in their material contravention statement contend that that generally objectives relating to height and density allow some scope for these limits to be surpassed. They continue by stating that it is unclear however the degree to which these levels may be exceeded, and whether or not these levels are acceptable, before representing a material contravention of objectives contained within the Development Plan. I would concur with this assertion but based on the argument set out above, I consider that the proposed height does not represent a material contravention of the operative Development Plan. The planning authority do not state that they consider the proposal to represent a material contravention of the CDP, however they state that they do not agree with the applicant's interpretation that the proposal responds well at the scale of district/neighbourhood, as set out in section 3.2 of the Urban Development and Building Height Guidelines. They contend that the proposed development fails to respond to its overall natural and built environment nor does it make a positive contribution to the neighbourhood and streetscape. I would disagree with this opinion. I have had particular regard in assessing this proposal to these development management criteria, as set out in section 3.2 of these Guidelines, which states that the applicant shall demonstrate to the satisfaction of the Planning Authority/An Bord Pleanála that the proposed development satisfies criteria at the scale of relevant city/town; at the scale of district/neighbourhood/street; at the scale of site/building, in addition to specific assessments. I am of the opinion that this has been adequately demonstrated in the documentation before me and the proposal has the potential to make a positive contribution to this area.

- 10.3.18 To conclude this point, I draw the attention of the Bord to the fact that the applicant, while addressing the matter in the material contravention statement, does not explicitly state that the proposal represents a material contravention in relation to height and has, in my opinion, adequately addressed the matter within the submitted Material Contravention Statement. The planning authority have not stated that they consider the proposal to present a material contravention of the operative County Development Plan in relation to height. I consider that the proposal does not represent a material contravention in relation to height. I note the locational context of the site, in an area considered to be somewhat evolving in nature moving from a

low density, two-storey suburban area to a more urban area with a mix of heights and densities. It is an area with relatively good public transport links- both existing and planned-although the links could not be described as exceptional. A recently permitted SHD application on nearby Churchview Road is noted in this regard. The proposal will bring a change to the neighbourhood and streetscape, but this is not necessarily a negative. Having regard to all of the above, I am satisfied in this regard and I consider that if the Bord considers that the proposal represents a material contravention of the operative County Development, it is open to them to grant permission in this instance and invoke section 37(2)(b) of the Planning and Development Act 2000, as amended, in particular section 37(2)(b)(i) and (iii), due to strategic nature of application and national policy guidance in this regard.

#### Conclusion

10.3.19 In my opinion, the issues of height, density, scale and massing of the proposal are inter-related. It is the sum of all these parts that, amongst other assessments, determines the appropriateness or otherwise of the proposal. I am generally satisfied in this regard and consider that appropriate transitions in scale have been put forward in the design. The applicant has had regard in this proposal to existing residential properties, to the protection of the historic Kylemore House and gate lodge and to improving the streetscape and connectivity of the area. While, without doubt, it will bring a change to the character and context of the area, this will be a positive change in my opinion and I consider the proposal to be in compliance with national guidance in this regard.

### **10.4 Visual Amenity**

10.4.1 Most of the third party submissions received raised concerns with regards the impacts of the proposal on the visual amenity of the area. Many of these concerns are interlinked with concerns regarding heights, scale and density of the proposal and I have dealt with many of the concerns above. Most of the third party submissions received contend that the proposal is out of character with existing development in the area; would set an undesirable precedent for similar type developments in the locality; represents overdevelopment of the site and the proposal would negatively impact on the amenity of the area. The planning authority have raised concerns also in this regard and these concerns have also been detailed

in other parts of this assessment. The concerns of the planning authority are reflected in their recommended reasons for refusal which include that the proposal fails to have regard to its surrounding context; would have a detrimental impact on the character of the surrounding area; would have cramped built form and represents overdevelopment of the site. It is stated that the extent of Block A2 is such that it would be visually dominant and overbearing on surrounding residential properties.

10.4.2 The applicants have submitted CGIs/visualisations comprising nine viewpoint images of the proposed development from Church Road, Watson Road and Watson Drive. In addition, a Landscape and Visual Impact Assessment, Design Statement, contextual elevations and sections have been submitted. All of these documents/drawings show the proposed development relative to that existing in the locality.

10.4.3 The planning authority acknowledge that notwithstanding the proposed Protected Structures, the site is not located within an architecturally sensitive area. I would concur. This is a low density, established suburban area with houses primarily single storey or two-storey in height. I am generally satisfied that notwithstanding the concerns expressed in the submissions received, the proposed development would not have so great an impact on the visual amenity of the area as to warrant a refusal of permission. The proposed single storey dwelling fronting onto Watson Road will tie in well with and complement existing development on the road and the proposed apartment blocks are well set back from the roadway. The demolition of No. 66 Watson Drive was accepted in the extant permission on site. While the height of the proposal is a maximum of six storeys, it is noted that the highest elements of the proposal front onto Church Road. Given its width, I consider that the roadway can accommodate a development of the height and scale proposed. I note that permitted development on Churchview Road of up to seven storeys in height (ABP-204823-19), which is located in close proximity to the subject site. The proposed heights step down as the blocks move closer to the boundaries of the site. I am generally satisfied with regards transition in scale. I do not consider the elevation of Block A2 to be monotonous or overly dominant. The proposed separation distances are noted; it steps down closest to the boundary with the nearest residential properties and the top floor is significantly setback. I am satisfied in this regard. Some of the submissions received state that the proposed Blocks C1



and C2 would be visually incongruous when viewed from the surrounding residential properties. Again, I would not concur. Block C1 is a maximum of five storeys, stepping back to four and three-storeys at its more northern end. Substantial separation distances are proposed with the properties to its west, with a proposed terrace of two-storey dwellings located in-between. Separation distances to its north are again acceptable, given the setbacks proposed. Block C2 is a maximum of four storeys (over partial basement), stepping down to two and three storeys, closest existing residential properties. Separation distances are noted and considered acceptable.

#### Separation Distances and Material Contravention

- 10.4.4 The planning authority have raised some concerns regarding proposed separation distances within the scheme, as too have some third party submissions. I note that separation distances of less than 22 metres between blocks is proposed, with it highlighted to the Bord that a separation distance of less than 8 metres is proposed between the proposed terrace of dwellings and Block C1. I am of the opinion that separation distances of this extent would not be uncommon in many established streets in towns and cities and I am not overly concerned in this regard, given the heights proposed, the orientation and layout of the scheme. If the Bord has concerns in this regard, they could deal with the omission of the dwellings by way of condition.
- 10.4.5 The submitted Material Contravention Statement deals with the matter of separation distances between buildings within the subject site, in the context of Section 8.2.8.4(ii) of the DLR Development Plan. Again, the incorrect section is referenced in the subject statement, which should read section 8.2.3.3(iv). This section of the operative County Development Plan states 'All proposals for residential development, particularly apartment developments and those over three storeys high, shall provide for acceptable separation distances between blocks to avoid negative effects such as excessive overlooking, overbearing and overshadowing effects and provide sustainable residential amenity conditions and open spaces. The minimum clearance distance of circa 22 metres between opposing windows will normally apply in the case of apartments up to three storeys in height. In taller blocks, a greater separation distance may be prescribed having regard to the layout, size and design. In certain instances, depending on orientation and location in built-



up areas, reduced separation distances may be acceptable'. I am of the opinion that the wording of this section is such that flexibility in terms of separation distances is allowable.

10.3.20 As before the Material Contravention Statement does not explicitly state that the proposal materially contravenes the County Development Plan in this regard and instead states 'Given the height, density, car parking, separation distances and proportion of dual aspect units proposed it may be considered that the proposed development represents a material contravention to the Development Plan'. The planning authority, while they express concerns in this regard, do not state that this matter represents a material contravention of the Plan. I also consider that the proposal does not represent a material contravention of the Plan in this regard. I also note national policy guidance which encourages against blanket restrictions on such matters as separation distances. I am of the opinion that the Board considers that the proposal represents a material contravention of the operative County Development Plan, it is open to them to grant permission in this instance and invoke section 37(2)(b) of the Planning and Development Act 2000, as amended, in particular section 37(2)(b)(i) and (iii), due to the strategic nature of application and national policy guidance in this regard.

#### Policy Guidance

10.4.6 Having regard to the Urban Development and Building Heights Guidelines, 2018, I note that specific assessments were undertaken including a LVIA, which concludes that the typical effect of the proposal is assessed as slight to moderate as the tallest elements of new buildings are stepped back at appropriate distances from the site boundary and views are typically filtered by retained and/or additional planting. I consider that at the scale of relevant town/city, the proposal will make a positive contribution to place-making introducing new streets and open spaces and utilises massing and height to achieve the required densities. I consider there to be sufficient variety in scale and form to respond to the scale of adjoining developments and create visual interest in the streetscape. At the scale of district/neighbourhood/street, I consider that the proposal responds satisfactorily to its overall natural and built environment and in this instance and will make a positive contribution to the urban neighbourhood at this location. The proposal is considered not to be monolithic and there is sufficient variety in elevations and break-up of

blocks to create interest that includes balconies and varied fenestration sizes. Materials are appropriate for the area, with a largely brick finish. I have some concerns regarding the extent of render on Block D1 but this matter can be adequately dealt with by means of condition. The proposal will provide enhanced public open spaces for the wider neighbourhood. The proposed development would not interfere with significant views in the locality, the site is not located within an architecturally sensitive area and I am of the opinion that the proposal can be accommodated on this site without detriment to the amenities of the area.

10.4.7 One of the submissions received refers to Policy LHB6: Views and Prospects (section 4.1.2.5) of the operative County Development Plan where it is stated that 'It is Council policy to protect and encourage the enjoyment of views and prospects of special amenity value or special interests'. I am satisfied that the proposal will not significantly impact on views and prospects within the wider area. The planning authority have not raised concern in this regard. The proposal reflects the changing and evolving nature of such areas. I am of the opinion that the greater height of the proposed buildings compared to those around them would accord with the statement at SPPR1 of the Building Height Guidelines to support increased building height and density in locations with good public transport accessibility. I am satisfied in this regard.

10.4.8 The detailed design of the proposed development achieves a high architectural standard. As stated elsewhere, this is a zoned, serviceable site which is located in an established area, where services and facilities are good. There is good public transport in the vicinity of the site, together good cycle/pedestrian facilities. There will, without doubt, be a change in context and a change in character along this stretch of Church Road and the proposal will be visible on the skyline from various vantage points in the wider area. The proposal will also be visible from within the surrounding residential estates, including Watson and St. Mathias. Existing dense screening, complemented with additional planting, will filter some views. I do not consider this to be a negative.

#### Visual Amenity and proposed Protected Structures

10.4.5 Kylemore House (House) and Kylemore Lodge (Gate Lodge) are included as proposed Protected Structures, under RPS No. 2124 and RPS No. 2125 respectively

in the draft Dun Laoghaire County Development Plan 2022-2028. A good attempt has been made to protect the character of the proposed Protected Structures. The new development will be visible in the context of the proposed Protected Structures. I do not have issue with the overall height, scale or density of the proposal, relative to the height of the proposed Protected Structures. This is a contemporary development, which reflects the time in which it is proposed. The setting of the proposed Protected Structures may have changed from that originally envisaged but they remain historic examples of the era in which they were constructed. The lands are being adapted to facilitate current needs and this evolution is to be welcomed in principle. The layout, design and materiality proposed is such that it will be very clear which are historic structures and which are contemporary additions on the site. I consider that the different eras can sit side by side, reflecting the period in which they were designed and constructed and I do not have issue in this regard.

#### Conclusion

- 10.4.6 I have closely examined the potential visual impacts of the proposed development on nearby areas. My assessment has also been informed by my site visit, where I viewed the proposed development site from surrounding areas. In principle, I consider that the site can accommodate a development of the nature proposed and the proposal represents an appropriate form and scale of development at this location. In my opinion, any impacts on visual amenities would not be so great as to warrant a refusal of permission.

### **10.5 Residential Amenity including Proposed Residential Standards**

#### Context

- 10.5.1 Concerns regarding impacts on residential amenity have been put forward in almost all of the observer submissions received, including concerns regarding overlooking, overshadowing, impacts on privacy, anti-social behaviour, vermin and devaluation of property. The planning authority have also raised concerns in this regard and their third reason for refusal states that the proposal, if permitted would result in a substandard level of residential amenity for future occupants of the proposed scheme. In terms of impacts on existing residential amenity, at the outset I acknowledge that, without doubt, there will be a change in outlook as the site moves from its current level of development to that accommodating a high density



development, such as that proposed. This is not necessarily a negative. I am cognisant of the relationship of the proposed development to neighbouring dwellings. In my opinion, a sufficient distance is being maintained from existing properties to ensure that any impacts are in line with what might be expected in an area such as this, and therefore are considered not to be not overbearing given this context. There is an acknowledged housing crisis and this is a serviceable site, zoned for residential development in an evolving area, where there are good public transport links with ample services, facilities and employment in close proximity. I have no information before me to believe that the proposal if permitted would lead to the devaluation of property in the vicinity.

#### Existing Residential Amenity

- 10.5.2 Concerns regarding impacts on residential amenity have been raised in almost all of the third party submission received and these are noted. These include, *inter alia*, impacts on daylight, sunlight and overshadowing, noise, vermin, impacts on privacy and devaluation of property.

#### Daylight and Sunlight

- 10.5.3 Loss of daylight and overshadowing forms one of the key objections from local residents. The Building Height Guidelines refer to the Building Research Establishments (BRE) 'Site Layout Planning for Daylight and Sunlight – A guide to good practice' and ask that 'appropriate and reasonable regard' is had to the BRE guidelines. However, it should be noted that the standards described in the BRE guidelines are discretionary and are not mandatory policy/criteria and this is reiterated in Paragraph 1.6 of the BRE Guidelines. Of particular note is that, while numerical guidelines are given with the guidance, these should be interpreted flexibly, since natural lighting is only one of many factors in site layout design, with factors such as views, privacy, security, access, enclosure, microclimate and solar dazzle also playing a role in site layout design (Section 5 of BRE 209 refers). The standards described in the guidelines are intended only to assist my assessment of the proposed development and its potential impacts. Therefore, while demonstration of compliance, or not, of a proposed development with the recommended BRE standards can assist my conclusion as to its appropriateness or quality, this does not dictate an assumption of acceptability or unacceptability.



10.5.4 I note that the criteria under section 3.2 of the Building Height Guidelines at the scale of site/building include the performance of the development in relation to minimising overshadowing and loss of light.

10.5.5 A 'Daylight, Sunlight and Overshadowing Assessment' was submitted with the application. The information contained therein generally appears reasonable and robust. It has been prepared in accordance with BS 8206-2: 2008 'Lighting for Buildings – Part 2: Code of Practice for Daylight' and the BRE BR209 'Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice', 2<sup>nd</sup> Edition 2011. The Design Standards for New Apartments- Guidelines for Planning Authorities were also considered as part of the study. I have considered the report submitted by the applicant and have had regard to BS 8206-2:2008 (British Standard Light for Buildings- Code of practice for daylighting) and BRE 209 – Site Layout Planning for Daylight and Sunlight: A guide to Good Practice (2011). The latter document is referenced in the section 28 Ministerial Guidelines on Urban Development and Building Heights 2018. As before, while I note and acknowledge the publication of the updated British Standard (BS EN 17037 2018 'Daylight in Buildings'), which replaced the 2008 BS in May 2019 (in the UK), I am satisfied that this document/UK updated guidance does not have a material bearing on the outcome of the assessment and that the more relevant guidance documents remain those referenced in the Urban Development and Building Heights Guidelines. I have carried out an inspection of the site and its environs.

#### Daylight

10.5.6 In relation to daylight, paragraph 2.2.7 of the BRE Guidance (Site Layout Planning for Daylight and Sunlight - 2011) notes that, for existing windows, if the VSC is greater than 27% then enough skylight should still be reaching the window of the existing building. Any reduction below this would be kept to a minimum. BRE Guidelines recommend that neighbouring properties should retain a VSC (this assesses the level of skylight received) of at least 27%, or where it is less, to not be reduced by more than 0.8 times the former value (i.e. 20% of the baseline figure). This is to ensure that there is no perceptible reduction in daylight levels and that electric lighting will be needed more of the time. Figure 8.0.2 of the submitted Report identifies the properties analysed, 46 properties in total where the VSC was calculated for all main living room windows which face the proposed development. I am satisfied that all relevant properties have been considered. The results confirm

that the access to daylight for existing surrounding dwellings, when compared with their existing baseline experience, will not be compromised as a result of the proposed development because the VSC in all cases is  $\geq 27\%$  or  $\geq 0.8$  times its existing value prior to the proposed development. All calculated VSCs achieve the recommended metrics for maintaining daylight. I am of the opinion that any impacts on nearby properties are, on balance acceptable, having regard the minimal impacts on the windows of these identified properties, to the existing open nature of the site and the need to deliver wider planning aims, including the delivery of housing and the regeneration of an underutilised urban site.

#### Sunlight

10.5.7 The impact on sunlight to neighbouring windows is generally assessed by way of assessing the effect of the development on Annual Probable Sunlight Hours (APSH) and Winter Probable Sunlight Hours (WPSH). The BRE Guidelines suggest that windows with an orientation within 90 degrees of due south should be assessed. Again the main living room windows which face the proposed development have been assessed. Both the annual and winter results are provided. Of the 47 properties assessed, 3 properties do not achieve the BRE Guideline recommended values for safeguarding annual access to sunlight while 2 do not achieve the BRE Guideline recommended values for safeguarding winter access to sunlight. In this regard, it is noted that the calculated APSH is marginally outside of the guidelines in all instances. It is important to note that the assessment windows are worst case scenario ground floor windows, which face the proposed development. For many, if not all of the windows that do not achieve the guideline value, it is noted that the assessed windows are oriented north and therefore have reduced sunlight access in general. In general the main living room of these dwellings is most likely on the opposite side of the dwelling and will not be affected/significantly affected by the proposed development. It is reasonable to state that the loss of sunlight affects only a small number of windows and I would agree with the applicants contention that a classification of minor adverse impact is appropriate. In relation to the conclusions of the report, as relates to sunlight I am satisfied that impacts of the development on sunlight levels to surrounding property will be minor, and are on balance, acceptable.

#### Overshadowing

10.5.8 In relation to overshadowing, BRE guidelines state that an acceptable condition is where external amenity areas retain a minimum of 2 hours of sunlight over 50% of the area on the 21<sup>st</sup> March. All private gardens adjoining the proposed development site boundary that could potentially be impacted, were assessed in relation to potential overshadowing. All gardens retain at least 2 hours of sunlight over at least 50% of the area on the 21<sup>st</sup> March. As such, I am content that the proposed development would not unduly overshadow surrounding amenity spaces.

10.5.9 Overall, I acknowledge that the proposed development would not meet BRE targets in all instances, however I do not consider there to be significant impact upon surrounding residents' daylight and sunlight as a result. The level of impact is considered to be acceptable. In my opinion, and based upon the analysis presented, the proposed development does not significantly alter daylight, sunlight or overshadowing impacts from those existing and this is considered acceptable. The proposed development is located on a site identified for residential development. Having regard to the scale of development permitted or constructed in the wider area and to planning policy for densification of the urban area, I am of the opinion that the impact is consistent with emerging trends for development in the area and that the impact of the proposed development on existing buildings in proximity to the application site may be considered to be consistent with an emerging pattern of medium to high density development in the wider area, which is considered reasonable. While there will be some impacts on a small number of windows, on balance, the associated impacts, both individually and cumulatively are considered to be acceptable.

#### Overlooking and impacts on privacy

10.5.10 The issue of overlooking has been raised in many of the submissions received. At its closest point, the proposed two/three storey terrace dwellings are located 8.7 metres from the boundary of the site, which adjoins properties fronting onto Watson Road. There is considered screening in this area of the site, which I acknowledge was in full foliage at the time of my site visit. These existing properties to Watson Road have relatively long rear garden areas. With regards the proposed terrace dwellings, it is only the property at either end of the terrace that is three storey, the remainder are two-storey but all properties read as two-storey when viewed from Watson Road. In any event, the third storey window is high level to a double-height



space. While there may be some perceived overlooking at this location, I am satisfied in this regard. If the Bord disagrees they could omit this terrace of dwellings by condition and the area revert back to a green space.

10.5.11 All other separation distances are noted. Given the locational context of the site, the orientation of existing and proposed development, together with the design rationale proposed, I consider that matters of overlooking would not be so great as to warrant a refusal of permission. In terms of Block D1, there may be some perceived overlooking and in this regard, the Bord may wish to obscure the glazing in the third and fourth floor windows on the southern elevation of Block D1 or redesign this elevation to make these windows high level.

10.5.12 This is an urban/suburban area and a certain degree of overlooking is to be anticipated. It is also to be anticipated that one would see other development from their property. I am satisfied that impacts on privacy would not be so great as to warrant a refusal of permission.

#### Anti-social behaviour

10.5.13 Concerns have been raised in some of the submissions received with regards to an increase in anti-social behaviour as a result of the proposed development, in particular associated with the future pedestrian links through the site. While I acknowledge the concerns raised, I have no reason to believe that this would be an issue. The proposed pedestrian links, if implemented will improve connectivity within the area, for both existing and future residents. New pedestrian links have been permitted under the existing permission, ABP-301334-18. Any matters relating to law enforcement are a matter for An Garda Síochána, outside the remit of this planning appeal.

#### Noise

10.5.14 The matter of construction noise has been raised in some of the third party submissions received, together with noise from the proposed playgrounds. Given the nature of the development proposed, I do not anticipate noise levels to be excessive. There may be some noise disruption during the course of construction works. Such disturbance or other construction related impacts is anticipated to be relatively short-lived in nature. The nature of the proposal is such that I do not anticipate there to be excessive noise/disturbance once construction works are



completed. I note that an Outline Construction & Environmental Management Plan has been submitted with the application, which deals with the issues of noise and dust control, demolition procedures and site security/hoarding. In addition, an Outline Construction & Demolition Waste Management Plan has been submitted, which deals with matters of waste management and demolition procedures amongst other matters. As such, these plans are considered to assist in ensuring minimal disruption and appropriate construction practices for the duration of the project. I have no information before me to believe that the proposal will negatively impact on air quality. Construction related matters can be adequately dealt with by means of condition. However, if the Bord is disposed towards a grant of permission, I recommend that a Construction Management Plan be submitted and agreed with the Planning Authority prior to the commencement of any works on site.

10.5.15 Some submissions raise concerns regarding the location of the proposed playgrounds and the impacts that these may have on the amenity of nearby residential properties. In this regard, I consider that the western most playground (the larger of the two playgrounds located to the south of Block C2) should be relocated to a more appropriate location within the overall site, so as not to detract from the amenities of adjoining residential development. This matter could be adequately dealt with by means of condition, if the Bord is disposed towards a grant of permission.

#### Vermin

10.5.16 The matter of increased vermin as a result of the proposed construction works has been raised in some of the third party submissions received. The matter of construction management has been dealt with above and good construction practices are envisaged. I have no information to believe that the proposal will result in an increase in vermin in the general vicinity of the site.

#### Proposed Residential Standards

##### Unit Size/Floor to Ceiling Heights

10.5.17 The proposal meets the requirements of SPPR3 and SPPR5 of the aforementioned Apartment Guidelines 2018 in relation to minimum apartment floor areas and floor to ceiling heights. I note the provisions of section 3.25 of the Sustainable Urban Housing Guidelines in relation to the proposed floor to ceiling heights of units

proposed within Kylemore House, a building refurbishment scheme and am satisfied in this regard.

#### Unit Mix and Material Contravention

10.5.18 I note that some of the third parties have raised concerns regarding the proposed unit mix, in particular the extent of one-bed units, which they consider could lead to a more transient population within the area. The planning have also raised concerns in this regard and their third recommended reason for refusal is noted, which states that the proportion of one-bed units proposed would contravene the provisions of section 8.2.3.3(iii) of the operative County Development Plan in this regard.

The proposed unit mix is as follows:

Table 6:

	Studio	1 bed	2 bed	3 bed	Total
Apartments	1 (0.4%)	98 (38%)	137 (53.6%)	12 (5%)	248
Houses		-	-	7 (3%)	7

10.5.19 I note section 8.2.3.3(iii) states 'Apartment developments should provide a mix of units to cater for different size households, such that larger schemes over 30 units should generally comprise of no more than 20% 1-bed units and a minimum of 20% of units over 80 sq.m'. I draw the attention of the Bord to the fact that this section does not state that larger schemes over 30 units *shall* comprise...instead it states 'should generally comprise'. I am of the opinion that this allows for a degree of flexibility in this regard. The planning authority do however within their assessment acknowledge section 2.2 of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2020), which relates to flexibility in respect of dwelling mix and notes SPPR1 and SPPR2 in this regard. They state that while they consider the proposal does not accord with section 8.2.3.3(iii) of the operative County Development Plan, the proposal would accord with the requirements of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2020), which supersedes sections of the County Development Plan.

10.5.20 The wording of the SPPR, as set out in the aforementioned Sustainable Urban Housing guidelines is as follows:

Specific Planning Policy Requirement 1

Housing developments may include up to 50% one-bedroom or studio type units (with no more than 20-25% of the total proposed development as studios) and there shall be no minimum requirement for apartments with three or more bedrooms. Statutory development plans may specify a mix for apartment and other housing developments, but only further to an evidence-based Housing Need and Demand Assessment (HNDA), that has been agreed on an area, county, city or metropolitan area basis and incorporated into the relevant development plan(s).

Specific Planning Policy Requirement 2

For all building refurbishment schemes on sites of any size, or urban infill schemes on sites of up to 0.25ha:

- Where up to 9 residential units are proposed, notwithstanding SPPR 1, there shall be no restriction on dwelling mix, provided no more than 50% of the development (i.e. up to 4 units) comprises studio-type units;
- Where between 10 to 49 residential units are proposed, the flexible dwelling mix provision for the first 9 units may be carried forward and the parameters set out in SPPR 1 shall apply from the 10<sup>th</sup> residential unit to the 49<sup>th</sup>;
- For schemes of 50 or more units, SPPR 1 shall apply to the entire development;

All standards set out in this guidance shall generally apply to building refurbishment schemes on sites of any size, or urban infill schemes, but there shall also be scope for planning authorities to exercise discretion on a case-by-case basis, having regard to the overall quality of a proposed development.

10.5.21 While I note that this proposal includes for a building refurbishment, it is clear that SPPR1 applies to the entirety of the development.

10.5.22 While the concerns of the planning authority and third parties are noted, I am of the opinion that the vast bulk of residential development within this area, traditionally comprised of family dwellings, suburban three and four bed properties with front and rear gardens. I am of the opinion that this cohort of the population has traditionally



been well catered for, some would argue to the exclusion of those with differing circumstances requiring smaller units. I am of the opinion that a development of the mix proposed would aid in addressing this imbalance and would cater to those not requiring a three or four bed house with front and rear garden. The incorporation of apartments into the site will be a positive contribution to the mix of typologies in the area. The proposal will aid in offering a choice of residential unit for those wishing to reside in the area, possibly as either starter homes or step-down properties catering to those at different stages of the lifecycle. The proposal will provide a viable housing solution to households where home-ownership may not be a priority. The residential type may provide a greater choice for people in the rental sector, one of the pillars of Rebuilding Ireland. Having regard to section 3.2 of the Urban Development and Building Height Guidelines, 2018, at the scale of district/neighbourhood/street, I consider that the proposal positively contributes to the mix of uses and/or building/dwelling typologies available in the neighbourhood. I have no information to believe that the residents of the proposed development would not become a positive addition to the community at this location. I am satisfied in this regard.

10.5.23 In terms of material contravention of the operative County Development Plan, I note that the matter of unit mix has been included in the Material Contravention Statement and the applicants highlight the proportion of one-bed units proposed when compared with Policy 8.2.3.1 of the operative County Development Plan. This should state section 8.2.5.3, the error is considered typographical in nature and minor in nature. I note that the Statement, whilst addressing the matter of unit mix, does not explicitly state that the applicants consider this matter to be a material contravention of the Development Plan but states that it '**may be considered** that the proposed development represents a material contravention to the Development Plan' (my emphasis). They highlight that the Development Plan states that "larger schemes over 30 units should **generally** comprise of no more than 20% 1-bed units" (my emphasis). The proposed scheme provides 0.3% studio and 38.4% one-bed apartments. It is submitted by the applicants that this provision is in accordance with the Apartment Guidelines which allow for up to 50% one-bed/studio units under Specific Planning Policy Requirement 1, which takes precedence over the Development Plan's standards. They further consider that this higher proportion of



one-bed units is considered appropriate for this well connected urban site. I would concur. Given the wording of section 8.2.3.3(iii), I consider that the proposal does not represent a material contravention of the operative County Development Plan in this regard and that flexibility is allowable in relation to this matter. I also note that the planning authority do not state that the proposal represents a material contravention of the Plan in this regard. However, if the Bord considers this matter to be a material contravention of the operative County Development Plan I consider that it is open to them to grant permission in this instance and invoke section 37(2)(b) of the Planning and Development Act 2000, as amended, in particular section 37(2)(b)(i) and (iii), due to strategic nature of the application and national policy guidance in this regard.

#### Daylight and Sunlight to Proposed Residential Units

10.5.24 As before, I have considered the Daylight, Sunlight and Overshadowing Assessment submitted by the applicant and have had regard to BS 8206-2:2008 (British Standard Light for Buildings- Code of practice for daylighting) and BRE 209 'Site Layout Planning for Daylight and Sunlight – A guide to Good Practice' (2011). The latter document is referenced in the section 28 Ministerial Guidelines on Urban Development and Building Heights 2018. While I note and acknowledge the publication of the updated British Standard (BS EN 17037:2018 'Daylight in buildings'), which replaced the 2008 BS in May 2019 (in the UK), I am satisfied that this document/UK updated guidance does not have a material bearing on the outcome of the assessment and that the more relevant guidance documents remain those referenced in the Urban Development and Building Heights Guidelines. The submitted Daylight, Sunlight and Overshadowing Assessment describes the performance of the development against BRE guidelines in relation to daylight and sunlight and demonstrates that adequate levels of daylight would be received in most units. The proposed public and communal open spaces would benefit from good levels of daylight and would provide a high level of amenity.

#### Daylight

10.5.25 In relation to daylight, the analysis is for lowest residential levels in the proposed blocks (ground floors) with some first floor units with external glass louvres also assessed as representative of the most constrained area in terms of daylight access.

All ground units were assessed. The assumption being that if these rooms pass, it can logically be assumed that rooms above will also pass. I note the use of a 1.5% ADF value for open plan living/dining/kitchen areas. It is noted that 2% ADF is used for separate kitchens in the dwelling houses.

10.5.26 In relation to the BRE 209 guidance, with reference to BS8206 – Part 2, sets out minimum values for ADF that should be achieved and these are 2% for kitchens, 1.5% for living rooms and 1% for bedrooms. Section 2.1.14 of the BRE Guidance notes that non-daylight internal kitchens should be avoided wherever possible, especially if the kitchen is used as a dining area too. If the layout means that a small internal galley-type kitchen is inevitable, it should be directly linked to a well daylight living room. This BRE 209 guidance does not give any advice on the targets to be achieved within a combined kitchen/living/dining layout, although the submitted report references a 2% target, stating that 'where a room is multi functional, for example a Living Kitchen Dining Room (LKD), then the higher level of 2% should be achieved', making reference to BS8206 – Part 2: 2008 Code of Practice for Daylighting. I reiterate that the targets described in the BRE guidelines are discretionary, not policy. The proposed units contain combined kitchen/living/dining layouts, and no completely internal kitchens are proposed.

10.5.27 Of the 177 rooms assessed, all complied with the 1.5% value. (As an aside it is noted that the submitted Assessment states that it examined 10 units on the ground floor of Block A2. It is noted that there are 9 units on the GF of Block A1, the remaining area is comprised bicycle/bin storage area). The planning authority raise concern with the use of the 1.5% value and contend that the 2% value should have been utilised. They further note that in this regard, the 2% ADF would not be achieved in some ground floor units of Blocks A1, C1 and C2. While I acknowledge the concern of the planning authority in this regard, I note that while the recommended standards set out in the guidelines can assist my conclusion as to its appropriateness or quality, they do not dictate an assumption of acceptability. I note that notwithstanding the 1.5% ADF utilised, all units with the exception of eight no. assessed exceeded the 2% ADF standard, which indicates that the vast majority of kitchens will achieve good daylight levels. I note that the units examined are located on the lower floors, with balconies above some of these windows. I note also that as well as the factors referred to above, some of the rooms that achieve a relatively low

ADF are also facing towards other blocks on the site, which will serve to limit the level of daylight achieved to these rooms. I am satisfied that flexibility as to the target ADF is applicable, and that there is adequate justification in terms of use of an alternative target ADF of 1.5% for the open plan living/kitchen rooms, having regard to the nature of the typology proposed and the primary use of the space, and that to achieve 2% in all instances would compromise the amenity for other units (eg loss of balconies for upper floors) and layout arrangements which are considered to be appropriate from an urban design perspective. The vast majority of units achieve 2% and that where there is deviation to 1.5% this is acceptable and does not result in poor residential amenity. All units have a good aspect and external amenity spaces in the form of balconies/terraces and there are no north facing, single aspect units. In addition, I note that the applicant has endeavoured to maximise light into the apartments while also ensuring that the streetscape, architecture and private external amenity space are also provided for.

#### Sunlight

10.5.28 The report also considers internal sunlight levels to the proposed units, and a summary of results is set out in Appendix E of the report. Windows that face significantly north of due east and west were assessed as part of this study. In relation to sunlight, analysis has been provided in accordance with the BRE guidelines on Annual Probable Sunlight Hours (APSH). The APSH modelling involves assessment of the level of sunlight that reaches a window, then determining the number of windows with an APSH level greater than 25% on an annual basis or 5% on a winter basis (section 3.1.10 of the BRE 209 Guidance). The sunlight analysis of the proposed development is for living rooms, and the report states that the percentage of windows that comply with BRE values in the proposed development is 75%. Those that did not fully achieve the BRE metrics were only marginally short in the majority of cases or were north/north-east facing where there is a lower expectation of sunlight. This information is not set out in tabular form in the submitted report with individual units not identified, rather the information is displayed graphically and summarised. I note that the position of a window beneath a balcony will invariably mean that sunlight levels will be reduced. The Apartments Guidelines ask that balcony areas adjoin living rooms to ensure amenity space has a functional relationship with living space and it is recognised that the balconies serve an



essential amenity function for a residential development. This is recognised as having an impact levels of sunlight to some units. Overall, I consider that the level of sunlight received to windows in the proposed development is adequate, in recognition of the integral function of projecting balconies in the design and the north east aspect of some windows.

### Conclusion

10.5.29 In relation to the results for daylight (ADF), and for sunlight (APSH), I am satisfied that where shortfalls have been identified, they are not significant in number or magnitude, and are generally limited to those units on the lower floors or which have balconies or opposing blocks that partially obstruct daylight/sunlight provision.

10.5.30 I note that Criteria 3.2 of the Building Height Guidelines states that appropriate and reasonable regard should be had to the quantitative approaches as set out in guides like the Building Research Establishment's 'Site Layout Planning for Daylight and Sunlight' (2nd edition) or BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'. It is acknowledged in these Guidelines that, where a proposal does not fully meet the requirements of the daylight provisions, this must be clearly identified and a rationale for alternative, compensatory design solutions must be set out. The Board can apply discretion in these instances, having regard to local factors including site constraints, and in order to secure wider planning objectives, such as urban regeneration and an effective urban design and streetscape solution.

10.5.31 As noted, the assessment submitted indicates that there are some shortfalls in daylight provision, on the lower floors in particular when using the 2% value. The full extent of these shortfalls are made clear within the Daylight and Sunlight Report. BRE recommendations are that kitchens are attached to well day-lit living areas, and for the majority of units here, this is the case. Where shortfalls are identified, I note that in some instances balconies are obstructing levels of daylight, the orientation of the blocks or proximity of the opposing blocks. I am satisfied that all of these reasons are reasonable, and given the need to develop sites such as these at an appropriate density, full compliance with BRE targets is rarely achieved, nor is it mandatory for an applicant to achieve full compliance with same. In terms of compensatory design solutions, I note the favourable orientation of the majority of the units, with most having a westerly, southerly or easterly aspect. In addition, the



proposal provides a generous provision of communal/public amenity space, which will achieve good levels of sunlight due to its favourable orientation. There are no single aspect north facing apartments, with half the units being dual aspect. Each of the units has either a ground floor terrace/garden or a balcony space that meets minimum requirements. Internal residential amenity spaces have also been provided. The provision of the public realm is also of benefit to the amenity of the proposed residential units. The proposal also contributes to wider planning aims such as the delivery of housing and regeneration of an underutilised site. Overall, I consider that the applicant has endeavoured to maximise light into the apartments while also ensuring that the streetscape, architecture and private external amenity space are also provided for.

10.5.32 Having regard to above, on balance, I consider the overall level of residential amenity is acceptable, having regard to internal daylight and sunlight provision and having regard to the overall levels of compliance with BRE targets, to the compensatory design solutions provided, and having regard to wider planning aims. As such, in relation to daylight and sunlight provision for the proposed units, the proposal complies with the criteria as set out under Section 3.2 of the Building Height Guidelines, and provides a satisfactory level of amenity for future occupiers.

#### Amenity Space

10.5.33 The BRE Guidelines recommend that for a garden or amenity area to appear adequately sunlit throughout the year, at least half of it should receive at least two hours of sunlight on March 21st. Section 13 of the Daylight, Sunlight and Overshadowing Assessment demonstrates that at least 50% of the proposed communal amenity areas as a combined total will receive a minimum of 2 hours sunlight on 21st March, complying with BRE target levels. The planning authority are satisfied in this regard. I am also satisfied in this regard.

#### Aspect and Material Contravention

10.5.34 The planning authority recommends refusal of permission on the basis of the quantum of dual aspect units proposed and that the proposal would not accord with the provisions of SPPR4 of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines (2020) in intermediate/suburban areas (recommended reason for refusal no. 3). The planning authority states that the proposed

development would fail to provide an adequate level of residential amenity for future occupants of the scheme and would be contrary to the proper planning and sustainable development of the area. The planning authority is of the opinion that this is a suburban or intermediate area and on that basis, considers that 50% of units proposed should be dual aspect. It is their opinion that 48% of the proposed apartments are dual aspect (120 apartments out of a total of 248 apartments proposed). This figure is outlined in the 'Overall Summary' set out in the submitted Residential Quality Audit (pg. 4). However, I note that the stated total/percentages are incorrect on this table. The stated total of 120 should read as 124 units ( $82+42=124$ ) while the stated total percentage should read at 50% ( $33+17=50$ ) instead of 48%. There are discrepancies throughout the documentation as to the quantum of dual aspect units, for example it is stated in the Material Contravention Statement that the number of proposed dual aspect apartments stands at 56%. Differing figures are quoted in the Planning Report and Statement of Consistency with the figures of 46% and 48% cited consistently, elsewhere in the document it states that more than 48% of apartments will be dual aspect. Technically, this is correct as it appears to me from an examination of the Residential Quality Audit that 50% of apartments are dual aspect (124 out of 248 apartment units). There is also no question mark over the quality of the aspect, all are 'true' dual aspect units. This figure does not include the proposed dwellings, of which 100% are dual aspect.

10.5.35 The wording of SPPF4, as set out in the aforementioned Sustainable Urban Housing guidelines is as follows:

Specific Planning Policy Requirement 4

*In relation to the minimum number of dual aspect apartments that may be provided in any single apartment scheme, the following shall apply:*

- (i) A minimum of 33% of dual aspect units will be required in more central and accessible urban locations, where it is necessary to achieve a quality design in response to the subject site characteristics and ensure good street frontage where appropriate in.*
- (ii) In suburban or intermediate locations it is an objective that there shall generally be a minimum of 50% dual aspect apartments in a single scheme.*

- (iii) *For building refurbishment schemes on sites of any size or urban infill schemes on sites of up to 0.25ha, planning authorities may exercise further discretion to consider dual aspect unit provision at a level lower than the 33% minimum outlined above on a case-by-case basis, but subject to the achievement of overall high design quality in other aspects.*

10.5.36 I note that the proposal does include for the refurbishment of Kylemore House and therefore some discretion may be applied in relation to this, as per SPPR4(iii) above. All parties appear to be in agreement that this is an 'Intermediate Urban Location' as defined under section 2.4 of the Sustainable Urban Housing Guidelines. I would concur with this assertion. While the subject site is located approximately 0.6km from the nearest bus stop, it is approximately 2km walking distance from the nearest DART station at Killiney and 2.5km from the nearest LUAS stop using existing road infrastructure (figures cited by planning authority). I note that the figures quoted in this regard by the applicants with regards distances from public transport are slightly inaccurate and portray the site being closer to public transport than it actually is. This has been raised by both third parties and the planning authority. I would concur with the figures put forward by the planning authority in this regard.

10.5.37 Given that the proposed site is located within an 'Intermediate Urban Location' there is a requirement under SPPR4 for 50% of all apartments to be dual aspect. In my mind, this figure is being achieved and the proposal is in compliance with same.

10.5.38 The matter of dual aspect has been addressed in the submitted Material Contravention Statement, namely the proportion of dual aspect apartments proposed when compared with Policy 8.2.3.1 of the DLR Development Plan. Again as before, this should read section 8.2.3.3 of the operative County Development Plan. As before, this is a typographical error and does not affect the outcome of my recommendation. Neither policy is cited within the Material Contravention Statement. It is noted that the Statement does not explicitly state that the applicant considers the matter to materially contravene the operative Development Plan but instead states 'it **may be considered** that the proposed development represents a material contravention to the Development Plan' (my emphasis).

10.5.39 Section 8.2.3.3(ii) of the operative County Development Plan relates to dual aspect and states that '*Apartment developments are expected to provide a minimum of 70%*



*of units as dual aspect apartments. North facing single aspect units will only be considered under exceptional circumstances. A relaxation of the 70% dual aspect requirement may be considered on a case-by-case basis where an applicant can demonstrate, to the satisfaction of the Planning Authority, that habitable rooms of single aspect units will be adequately served by natural light and/ or innovative design responses are used to maximise natural light'. I note that the wording 'are expected to provide' again gives some degree of flexibility in this regard. I also note that there are no north facing single aspect units in the scheme and that the design response aims to maximise natural light. I therefore consider that the proposal does not represent a material contravention of the operative County Development Plan in this regard. It is noted that the planning authority do not state that the proposal represents a material contravention of the operative County Development Plan, they state that the proposal (based on figure of 48%) does not comply with SPPR4 of aforementioned Guidelines.*

10.5.40 The Material Contravention Statement accepts that the Apartment Guidelines note that in suburban or intermediate locations, it is an objective that a minimum of 50% of apartments will be dual aspect. In this regard, the applicant contends that the proposed development proposals have been designed to maximise the number of proposed dual aspect dwellings with 56% of the proposed apartment units, and 100% of all houses being dual aspect. As has been detailed above, it is my opinion that this figure is incorrect and should read 50%. In this regard, I am of the opinion that the proposal complies with SPPR4 of the aforementioned Apartment Guidelines. To conclude, if the Board considers this matter to be a material contravention of the operative County Development Plan I consider that it is open to them to grant permission in this instance and invoke section 37(2)(b) of the Planning and Development Act 2000, as amended, in particular section 37(2)(b)(i) and (iii), due to strategic nature of the application and national policy guidance in this regard.

#### Amenity

10.5.41 Some of the submissions received raise concerns with regards amenity for future occupiers, particularly in terms of the level of recreational amenity being provided. It is noted that this is not a build-to-rent scheme. In terms of the level of amenity being afforded to proposed occupants, I am satisfied that an appropriate standard is being provided and a quality scheme is proposed. This would be an attractive place in

which to reside. Adequate internal space is proposed to comply with the standards set out in Apartment Guidelines 2020 and the proposal complies with all relevant SPPR's. Private open space provision meets or exceeds standards for all proposed units. Communal resident support facilities/facilities are being provided at ground and first floor levels of Kylemore House. They are of a high quality and are a positive for any future occupants. I am generally satisfied in this regard.

## **10.6 Traffic and Transportation/Car Parking and Material Contravention/Connectivity**

### Context

10.6.1 A Traffic and Transport Assessment, Parking Report and Residential Travel Plan, Outline Car Park Management Strategy, Civil Engineering Infrastructure Report and DMURS Compliance Statement have been submitted with the application. The information contained within these reports appears accurate and robust. I draw the attention of the Bord to the fact that many of the third party submissions received raised concerns regarding inadequate car parking provision, impacts of overspill parking onto adjoining roads and concerns regarding capacity of public transport. I refer the Bord to the report of the planning authority in relation to such matters and also to section 10.6 of the Inspector's Report of ABP-301334-18. The Bord accepted within that application that the local road network was capable of accommodating a development of that scale, namely 102 residential units. In total, 163 car parking spaces were permitted within that development. The proposed development will lead to an increase of 57 car parking spaces, over and above what was previously permitted.

### Traffic Impacts

10.6.2 Two vehicular access points to the development are proposed off Watson Road. Watson Road is a two-way residential street, just over 7 metres in width. All dwellings along Watson Road have ample off-street parking to the front of their properties, thus reducing the need for on-street parking. The two vehicular entrances from Watson Road serve different areas of the development and both internal roads ultimately lead into the basement car parks. A proposed speed limit within the proposed development of 15kph is noted and the planning authority is satisfied that achievable sightlines are sufficient. The proposal includes for the

closure of three vehicular accesses onto Church Road, to be replaced with 3 no. pedestrian accesses. These entrances are setback from Church Road to allow for the future provision of the 'Six-Year Road Objective' as set out in the operative County Development Plan. It is a superior proposal to have all traffic enter/exit the site via Watson Road as opposed to Church Road, as has been suggested in some of the submissions received.

10.6.3 The Transportation Division of the planning authority have raised some concerns in relation to pedestrian priority being compromised by the provision of a footpath on one side only along the proposed access on Watson Drive. They consider that this matter can however be dealt with by means of condition. I consider dealing with the matter by way of condition to be acceptable.

10.6.4 Traffic surveys were undertaken at 4 no. locations in February 2020. The TTA concludes that the four nearby junctions will continue to operate within capacity for future scenarios of 2028 and 2038. I accept that the proposal will give rise to additional traffic movements at this location, however I consider that the impacts of such would not be so great as to warrant a refusal of permission. The proposed pedestrian and cycle entrances will greatly enhance permeability throughout the site, through to the wider area. The proposal will offer much improved accessibility for pedestrians/cyclists from Watson Road to Church Road and this link should be opened prior to the occupation of any proposed residential units. This matter could be adequately dealt with by means of condition, if the Bord were disposed towards a grant of permission.

#### Car Parking and Material Contravention

10.6.5 In total, 220 car parking spaces are proposed, which include for 3 'Go-Car' spaces (20 at surface level, 200 in basement). Two spaces are proposed for the childcare element of the proposal. Of the 220 car spaces proposed, 213 spaces are allocated to the apartment element. The stated provision equates to 0.86 spaces/apartment unit. I note that Table 8.2.3 of the operative County Development Plan sets out car parking standards for residential use at a rate of 1 space per 1 bed unit, 1.5 spaces per two-bed unit and 2 spaces per three-bed unit plus 1 space per staff including set-



down. This would equate to a car parking requirement of 338 spaces. As stated, in total, 220 car spaces are proposed in this current proposal. The Transportation Division of the planning authority state that they consider a total of 264 no. car parking spaces to be appropriate at this location. This represents a shortfall of 44 spaces. A Material Contravention Statement has been submitted in this regard. However, I do not consider the car parking provision to represent a material contravention of the operative County Development Plan. The planning authority can not raise the issue of material contravention in this regard.

10.6.6 I note that in the extant permission on the site, ABP-301334-18, a total of 163 car parking spaces was permitted for 102 residential units.

10.6.7 The issue of car parking provision was raised in the majority of the third party submissions received and by the Elected Members. The planning authority have concerns regarding any reduced level of provision for residential car parking/car storage at this suburban location. Adequate provision of residential spaces is recommended to ensure that the proposed residential development site is not reliant on parking provision/car storage within the adjoining area and adversely impact neighbouring property. They state that the proposed parking provision is deficient by reference to Table 8.2.3 of the operative County Development Plan, which sets out car parking standards for the County. They also consider the proposal to be inconsistent with the standards set out in Sustainable Urban Housing: Design Standards for New Apartments. They recommend that the level of car parking be increased to 264 no. spaces and also address the imbalance of under provision for the proposed units in the southern section of the site.

10.6.8 It is clear from the above that a shortfall in car parking provision is proposed and that the proposal does contravene Table 8.2.3 of the operative County Development Plan, cited above. There appears to be conflicting objectives in the operative County Development Plan in relation to this matter. I note from an examination of the operative County Development Plan that the written text of section 8.2.4.5 states that 'Car parking standards provide a guide on the number of required off-street parking spaces acceptable for new developments...' (my underlining). Based on this, I consider that the standards set out in Table 8.2.3 could be regarded as a guide only and note that this section seeks that 'appropriate consideration' be given by the planning authority to 'promoting modal shift to more sustainable forms of transport'.

10.6.9 Policy ST3 of the operative CDP deals with the matter of modal shift and states that *'It is Council policy that...effecting a modal shift from the private car to more sustainable modes of transport will be a paramount objective to be realised in the implementation of this policy'*. It could be argued that the proposed development is promoting modal shift to more sustainable forms of transport, in line with both this policy of the operative County Development and national guidance in this regard. This section of the CDP continues by stating that sustainable travel is about the movement of people and goods in a manner that engenders quality of life and ease of access for all and seeks to encourage a modal shift in favour of public transport and other non-car based modes. The proposed development, could be argued to increase the quality of life for its residents by providing a largely car free environment, whilst at the same time encouraging modal split. Non-car based modes of transport are provided for with over 500 bicycle spaces proposed, while alternative means of transport in the form of 3 car club spaces and 4 motorbike spaces are also proposed.

10.6.10 I am cognisant of the need for car storage as a component of residential developments. While I acknowledge that the issue of car storage is very relevant, it is noted that residents of the scheme will be aware of the limited quantum of spaces when deciding whether or not to live in the proposed scheme and this matter may ultimately influence their decision. I am also of the opinion of that future residents should be advised in advance that there are only limited car parking spaces in this development.

10.6.11 Section 8.2.4.5 of the operative County Development Plan states that:

'Reduced car parking standards for any development (residential and non-residential) may be acceptable dependant on:

- The location of the proposed development and specifically its proximity to Town Centres and District Centres and high density commercial/ business areas.
- The proximity of the proposed development to public transport.
- The precise nature and characteristics of the proposed development.
- Appropriate mix of land uses within and surrounding the proposed development.

- The availability of on-street parking controls in the immediate area.
- The implementation of a Travel Plan for the proposed development where a significant modal shift towards sustainable travel modes can be achieved.
- Other agreed special circumstances where it can be justified on sustainability grounds.

10.6.12 In addressing the above, I note the following:

- The operative County Development Plan zones the subject site for residential development. The site is located approximately within walking distance of a number of centres including Killiney, Ballybrack and Sallynogga with their associated services, facilities and employment offerings. This is an established area with a wide range of services and facilities on offer.
- The proximity of the site to public transport is noted. There are a number of bus stops on both Church Road and Churchview Road (approximately 500m from the site). It is envisaged that BusConnects will run in close proximity to the site, both along Church Road and Churchview Road. Killiney DART station is within 2km of the subject site while there are good cycle facilities in the vicinity of the site. It is stated that public transport information will be posted within the apartment blocks. In addition, it is the stated intention of on-site management at the proposed development that a Travel Plan Coordinator be appointed to administer, implement, monitor and review travel plan management issues. The coordinator will also liaise with the local authority, public transport companies and facility managers on issues relevant to the maximisation by commuters of non-car based journeys to work.
- The proposal provides for a largely car-free environment, allowing for a superior standard of development. A proposed pedestrian link onto Watson Drive will provide a connection from Kylemore House to the local network of pedestrian pathways and onwards to Killbogget Park and the N11.
- I am of the opinion that a 'one size fits all' approach is not appropriate in this instance and a site specific approach is required in terms of overall design, layout and parking provision. This site specific approach to parking provision is advocated in national guidance.



- I note the mix of land-uses in the general area. The principle of a residential development of increased density with reduced parking was established on this site under ABP-301334-18. This is considered to be somewhat of a transitional area, as it moves away from lower density, suburban type dwellings to higher density development which reflects its locational context. Most of the existing suburban type dwellings in the vicinity have ample off-street parking, many with two spaces per property. I didn't observe issues of overspill parking along Church Road or Watson Road, during my site visit.
- Parking is not possible along Church Road, with double white lines in the centre of the roadway for much of its length and a wide grass verge along both sides. These parking controls would prevent overspill parking into the immediate areas. There are no parking controls on Watson Road, however I do note that existing properties all have ample off-street parking and are unlikely to avail of on-street parking. Issues of illegal parking are a matter for law enforcement, outside the remit of this planning application.
- A Parking Report & Residential Travel Plan has been submitted with the application, the contents of which appear reasonable and robust. In addition to the car parking proposed, it is noted that the development proposal includes for in excess of 500 bicycle parking spaces and 4 no. motorcycle spaces. The number of bicycle spaces exceeds the recommended standards set out in the operative CDP. It is noted that of the 220 car parking spaces proposed, 3 no. parking spaces will be dedicated for car club use only, exclusively for residents. A letter of intent from GoCar is submitted with the application (Appendix 6). Within this, it is stated that each GoCar placed in a community has the potential to replace the journeys of up to 15 private cars. An implementation and management plan for the car club should be submitted prior to the commencement of any works, if the Bord is disposed towards a grant of permission. Car club usage is argued to influence modal shift from private car usage to car sharing/public transport use. The removal of car storage from the site, shifting the residents to other means of transport is in line with local and national policy in this regard. The provision of car club spaces will aid in the sustainability of parking provision, provide consistency

with existing modal splits and will further reduce the traffic impact of the development.

10.6.13 In terms of national policy, I note that both the NPF and Apartment Guidelines emphasise a need to move away from universal parking standards to a more tailored performance-based approach. In this regard, I note National Policy Objective 13 of the National Planning Framework which states that “In urban areas, planning and related standards, including in particular building height and car parking will be based on performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected”. In addition, National Policy Objective 20 is also noted which seeks “...to ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments, and integrating physical activity facilities for all ages”. In addition, sections 4.18 – 4.27 of the Sustainable Urban Housing: Design Standards for New Apartments- Guidelines for Planning Authorities 2020 provide guidance in relation to car parking for differing locations and seek to encourage reductions in car parking provisions.

10.6.14 Having regard to all of the above, I am of the opinion that the proposal does not represent a material contravention of the operative County Development Plan in terms of car parking provision. However, as a precautionary approach and as the applicant has addressed the matter of car parking in the Material Contravention Statement, the Bord may wish to invoke section 37(2)(b) of the Planning and Development Act 2000, as amended, in particular section 37(2)(b)(i) and (ii), due to strategic nature of application and conflicting policies within the operative County Development Plan.

#### Cycle Parking

10.6.15 The applicant proposes a total of 548 bicycle parking spaces. This figure exceeds the requirements of the operative County Development Plan and Design Standards for New Apartments- Guidelines for Planning Authorities (2018). It is stated that the proposal is 99% compliant with the National Cycle Manual (namely 548 spaces

proposed as opposed to 550 spaces required). While the planning authority are satisfied with the quantum of cycle spaces proposed, they have some concerns in relation to their distribution. They consider that the southern portion of the site has a substandard provision with a ratio of 0.72 spaces/bedroom unit, below the 1 space per unit requirement. I consider that this matter could be adequately dealt with by means of condition. Other matters raised in the Transportation Department report in relation to type of cycle stands, together with design of basement car park can be adequately dealt with by means of condition. I am satisfied in this regard.

#### Connectivity

10.6.16 It is noted that the proposed development will open up new pedestrian and cycle connectivity from Watson Road and Watson Drive, through to Church Road and the wider area. In total, six access points are proposed, with only two of these providing vehicular access to the development. This will ensure that pedestrian and cyclists are given priority within the proposed scheme. At the present time, the site is quite defensive and disconnected from the surrounding area, with a high stone wall forming its boundary for much of Church Road, with a distinct lack of connectivity through to the Watson estate. Such increased connectivity is to be welcomed, which will also allow existing residents to more readily use proposed public open spaces and to access public transport along Church Road. It will also aid in improving the visual connection of the community with the proposed Protected Structures. While I note the concerns expressed in some of the third party submissions in particular in relation to increased antisocial behaviour in the vicinity as a result of opening up of these connections, I am satisfied in this regard. I have no information before me to validate these concerns, however these improved links will be a major positive for overall community and are to be welcomed.

#### Conclusion

10.6.17 The concerns of the planning authority are acknowledged in this regard, as too are those of the third parties and the Elected Members. Given the location of the site within an urban area on zoned lands, together with the nature of the use proposed, I do not have undue concerns in relation to traffic or transportation issues. I acknowledge that there will be some increased traffic as a result of the proposed development, in particular during the construction phase. However, the construction



phase will be temporary in nature and it is stated in the Outline Construction Management Plan that all construction traffic will access the respective sites off Church Road at the existing vehicular access, via 'Left in/Left out' arrangement preventing right turning movements into the site. The planning authority appear satisfied in this regard and I too am satisfied. In general, the site is well served with public transport and other services/amenities within walking distance. The proposal will improve connectivity for the wider area.

10.6.18 Notwithstanding the concerns expressed by the Planning Authority in relation to reduced car parking provision, I am generally satisfied in this regard and am therefore not recommending that the Bord refuse permission based on the level of parking being proposed. I consider the parking strategy, as proposed, to be acceptable in this instance. I am of the opinion that the proposed site is such that it largely satisfies the criteria set out in section 8.2.4.5 of the operative County Development Plan in relation to reduced car parking standards for appropriate development. I am also satisfied that the proposal is in compliance with Policy ST3 of the operative County Development Plan by effecting a modal shift from the private car to more sustainable modes of transport. I do not consider the proposal to represent a material contravention of the operative County Development Plan in this regard. Matters raised in relation to the layout of the proposed basements can be adequately dealt with by means of condition. Importantly, potential residents will be aware of the parking situation when deciding to move into the complex. Having regard to all of the above, I have no information before me to believe that the proposal would lead to the creation of a traffic hazard or obstruction of road users and I consider the proposal to be generally acceptable in this regard.

## **10.7 Drainage and Flood Risk**

10.7.1 I draw the attention of the Bord to the fact that all third party submissions received have raised concerns regarding proposed drainage and surface water. Capacity issues formed a major part of these submissions, together with concerns regarding lack of upgrades. A Civil Engineering Infrastructure Report was submitted with the application. The information contained therein appears reasonable and robust. The matter of infrastructural services including flood risk was dealt with in section 10.5 of

the Inspector's Report, in ABP-301334-18 and I refer the Bord to same. In term of site services, the site is served by a 225mm diameter combined sewer system along Watson Drive and the proposed development will connect to the existing network. In terms of water supply, there is an existing 150mm ductile iron public watermain in the Church Road reserve and the proposed connection to the development site is to be off this existing water main in Church Road. It is proposed that a new 150mm diameter connection is constructed to supply the new development site. The proposed surface water drainage system is designed to comply with the 'Greater Dublin Strategic Drainage Study (GDSDS). SuDS measures are proposed, including green roofs. An Irish Water Design Submission has been submitted by the applicant, which states that based on the information provided, Irish Water has no objection to the proposal. A report was received from Irish Water at application stage, which raises no objections subject to conditions being attached to any grant of permission.

- 10.8.2 The report of the Drainage Division of the planning authority, as contained in the Chief Executive Report, states that following a process of constructive engagement, the proposal generally satisfies their requirements. A thorough report was received and they have made comments in relation to surface water sewerage capacity issues in the context of some observations received from third parties. While they acknowledge that there are some existing deficiencies within the surface water sewer system, they are not aware of these deficiencies causing problems in the public surface water sewerage system, as has been cited in some of the observations received. They note that the proposed connection point at No. 66 Watson Drive is not the same location nor does it drain to the same local surface water drainage system as was proposed in previous applications that were refused permission for this reason. They further note that more recently ABP has granted permissions for development on Church Road. In addition, the applicant has proposed to restrict runoff to 6.0l/s when a higher allowable runoff rate could have been applied. In addition, separately they note that some of the input figures used in the HR Wallingford storage estimation are incorrect. Notwithstanding this, they are satisfied that the attenuation storage being provided is of acceptable magnitude. It is also noted that Appendices 3 and 5-8 inclusive of the GI Site Investigation results have not been included in the documentation. The planning authority are satisfied that based on the information provided, this matter could be adequately dealt with by

means of condition. I too am satisfied that there is adequate information on file to adequately address the matter. The planning authority have not raised concerns in relation to other matters, subject to conditions.

#### Flood Risk

10.8.3 I note that this matter was not raised as an issue in the previous grant of permission on the site, ABP-301334-18. A Site Specific Flood Risk Assessment was submitted with the current application. The contents of this document appears reasonable and robust. It concludes that the development is at no risk of flooding and is deemed appropriate within the proposed site location. It states that there is no risk from coastal, pluvial or fluvial flooding. Flood mapping included in the operative County Development Plan indicates that the proposed development site is located in Flood Zone C. The OPW flood maps show no record of flooding incidents in the immediate area of the proposed development. The planning authority state that based on the information provided in the SSFRA, the conclusions contained therein are accepted and thus the proposed development is considered to be in accordance with Appendix 13 (Strategic Flood Risk Assessment) of the County Development Plan 2016. I consider that having regard to all of the information before me, including the guidance contained within the relevant Section 28 guidelines on flood risk management that this matter has been adequately addressed.

#### Conclusion

10.8.4 Notwithstanding the concerns raised by third parties, I am generally satisfied in relation to the matter of drainage and flood risk. Both the planning authority and Irish Water are generally satisfied with regards the proposal put forward in this regard. Any concerns of the planning authority can be adequately dealt with by means of condition. I am also satisfied in this regard, subject to condition.

### **10.9 Other Issues**

#### Ecology/Biodiversity

10.9.1 Some of the concerns raised by third parties relate to impacts of the proposal on flora and fauna; impacts on badger setts; bat surveys in EcIA are considered to be significantly out of date with no conclusions made from them; inadequate planting is proposed together; inadequate public open space and distribution of same. The



planning authority have not raised concerns in this relation to these matters and highlight to the Bord the recommended conditions of the Department in relation to nature conservation. In this regard, the submission of the Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media notes that the proposed development site consists largely of abandoned gardens overgrown with scrub, several fire damaged bungalows and a large derelict house 'Kylemore', formerly used as a medical clinic. Tree rows mainly of sycamores are present on the site, as well as a number of large standard ornamental trees such as cedars, some of which are to be retained. Eleven bird species which nest on site were recorded. Many trees on the periphery of the site are also to be retained and there will be additional boundary planting, which, in the opinion of the Department should to some extent compensate for the removal of existing trees.

#### *Badgers*

- 10.9.2 It is noted that a badger survey of the site in December 2017 found one abandoned probable main badger sett and up to eight unused outlier or subsidiary setts. The report acknowledges that several setts are to be retained on the southern boundary of the site. The EclA reports this situation largely unchanged in December 2020, but recommends that another badger survey should be carried out before the commencement of any development works on the site. I consider that this should address the concerns of the third parties in this regard and the Department are satisfied in this regard subject to conditions.

#### *Bats*

- 10.9.3 A bat activity of the site carried out in July 2015 identified bats of the three most commonly recorded species, namely common and soprano pipistrelles and Leisler's bat foraging over the site but identified no bat roosts. A survey of buildings and trees on the site for their potential of bat roosts in December 2017 found no evidence of the use of any of the buildings on the site as bat roosts, and because of their subsequent further dereliction and fire damage, it is considered these buildings would even be less suitable as bat roosts now than they were then. Four trees to be removed from the site were found to have features of high potential to be used as

bat roosts, up to another sixteen trees to be removed medium potential as bat roosts and four more low potential. An additional site visit was carried out in August 2020 and an updated review of onsite trees for bat roosting potential was undertaken. The EcIA therefore recommends various measures with regards to the monitoring and methodology of tree felling during site clearance to ensure the avoidance of injury to bats which might potentially be present. While I acknowledge the time lapse in this regard raised by the third parties, the matter is addressed in the EcIA. I also note that the site circumstances would not have changed dramatically in that time period. It is acknowledged by the applicants that because of the lapse of time since the original bat activity and roost surveys, the EcIA recommends new activity and roosts surveys of the site before the commencement of any development works. This is considered reasonable and I note neither the planning authority nor the Department raise concerns in relation to these matters, subject to condition.

- 10.9.4 The matters raised above were addressed by condition in the extant permission on site and I consider it appropriate to use the same approach in this instance.

#### *Trees*

- 10.9.5 There is an objective 'To preserve Trees and Woodland' on the subject site. There is some reference to tree felling having taken place on site. I have no information regarding this and the planning authority have not raised it as a matter. Any issue of enforcement is a matter for the planning authority, outside the remit of this application. I acknowledge that the proposed development will result in some tree loss on the site to accommodate the works proposed. This is somewhat inevitable. An Arboricultural Report and detailed landscaping plan have been submitted with the application and significant tree planting/landscaping works are proposed. Details of the Tree Survey as contained within Appendix 2 of the Arboricultural Report. It is stated within the documentation that of the total tree loss, only 2 trees are classified as 'Category A' with the vast bulk being 'Category C and 'Category U'. Details of tree protection and management have been addressed in the documentation. While the Parks and Landscape Division of the planning authority request that further effort is made to retain additional trees on site, they state that the development is designed to a high standard and that the overall design approach, innovation, materials, tree and plant species and play provision are supported by them. I am also satisfied in this regard and consider that the matter may be adequately dealt with by means of

condition. I am satisfied with the distribution of open space proposed and have dealt with the matter of quantum of open space elsewhere in this report. One of the submissions received (No. 70 Watson Drive) raises concern with the replacement of a tree to the rear of his property with an ESB sub-station. As I have stated that the removal of some trees will be inevitable to accommodate the development proposed, however I am satisfied with the levels of retention and additional planting proposed. Proposed sub-stations have been appropriately designed into the scheme and are as unobtrusive as possible. I am satisfied in this regard.

#### Built Heritage/Conservation

- 10.9.6 An Architectural Heritage Assessment Report was submitted with the application, the contents of which appear reasonable and robust. I note that some third party submission expressed concerns regarding the impact of the proposal on the character and setting of the proposed Protected Structures and this matter has been dealt with above under 'Visual Amenity'. Kylemore House (House) and Kylemore Lodge (Gate Lodge) are included in the Draft Du Laoghaire Rathdown County Development Plan 2022 as proposed Protected Structures under RPS No. 2124 and RPS 2125 respectively. They are currently not designated as Protected Structures. The proposed development includes the provision of four apartments and community rooms within Kylemore House and the renovation/extension of the gate lodge into a residential unit. Similar type works were permitted to Kylemore House and gate lodge in the extant permission on site (ABP-301334-18). Six residential units were permitted in Kylemore House, while four are now proposed, together with community use. At that time, the subject structures were not listed as proposed Protected Structures and it was recognised at that time that the house was in danger of dereliction. Its situation has not improved in the interim. It is considered that the principle that the renovation/extension and conversion of these structures has been accepted in principle under the extant permission on site and the planning authority have not raised concern in this regard. I am satisfied with this element of the proposal and consider that the re-use and adaptation of the existing structures for future use as residential and community uses is to be welcomed ensuring their conservation into the future.

#### Archaeology



10.9.7 An area of archaeological potential extends within the subject lands, RMP Ref: 026-009 'Watson Road-Earthwork'. It is noted that an Archaeological Assessment Report was submitted with the application, the contents of which appear reasonable and robust and which concludes that based the results of the test trenching, no further mitigation by way of archaeological monitoring is required over the course of the development. This matter was not raised as an issue in the previous extant permission on site, ABP-301334-18. The planning authority have not raised concerns in relation to this matter. I too am satisfied in this regard.

#### Consultation

10.9.8 I note that some of the submissions received state that there was inadequate/lack of meaningful consultation with them by the applicants. It is noted that while meaningful consultation may be to the benefit of both parties, there is no statutory requirement to undertake such engagement.

#### Viewing of application documentation

10.9.9 Some third parties have raised concerns that due to the Covid-19 pandemic, they were unable to view hard copies of the file. I note that there were exemptions to any travel restrictions for the purpose of viewing a planning application. In addition, I note all documentation was available to view online on the [www.kylemoreshd2.ie](http://www.kylemoreshd2.ie).

#### SHD Process

10.9.10 Some of the third parties have raised concerns with regards the strategic housing development process. An Bord Pleanála are obliged to implement the provisions of planning law, including the SHD process laid down in the Planning and Development (Housing) and Residential Tenancies Act 2016. They are also obliged under section 9 of that Act to have regard to, inter alia, the policies of the Government and the Minister, including guidelines issued to planning authorities and to the provisions of Development Plans.

#### Fire Regulations

10.9.11 Assessment of the proposal against compliance with fire regulations is outside the remit of the planning legislation. I note that a Preliminary Fire Safety and Access and Use Strategy has been submitted with the application.

#### Inconsistencies

10.9.12 It is noted that there are a number of inconsistencies in the information provided, while some third parties have contended that some documentation lacked sufficient detail. While these are noted, they are considered to be relatively minor and do not affect the outcome of my recommendation. There is adequate information on file for me to comprehensively assess the proposed development.

#### Childcare Facility

10.9.13 The proposal includes for a childcare facility, of stated floor area 242m<sup>2</sup> and capacity for 41 children, with associated play space. The facility is located in the ground floor of Block D1 and would be available for use by both the future residents and wider community. I note that no childcare facility was provided for in the extant permission on site, ABP-301334-18. The planning authority have not raised any issue in this regard. I too am satisfied in this regard.

#### Part V

10.9.14 The applicant proposes to comply with the requirements of Part V of the Planning and Development Act 2000, as amended by way of transfer of 26 units, comprising 16 x one-bed apartments and 10 x two-bed apartments. The planning authority appear to be generally satisfied in this regard, subject to agreement on details such as land values, development costs and funding being available. They have recommended a condition to deal with the matter, in the event of permission being granted for the proposed development. This is considered acceptable.

#### Boundary Treatment

10.9.15 Some of the third party submissions received queried proposed boundary treatments. I refer the Bord to section 04.11 of the submitted Landscape Design Statement which details existing/proposed boundary conditions. Further details are included within the submitted landscape drawings and I refer the Bord to same. The planning authority have requested some further details in relation to proposed interface between the development and Church Road so as to ensure a considered and cohesive interface results. This is considered reasonable and could be adequately dealt with by means of condition, if the Bord is disposed towards a grant

of permission. The planning authority are generally satisfied with regards the remainder of details submitted in relation to boundary treatments. I am also satisfied in this regard and consider that a quality proposal has been put forward in this regard.

#### Wind Tunnelling

10.9.16 I have no information before me to believe the proposed development would give rise to wind tunnelling effects in the area, given the heights of the structures proposed. The planning authority have not raised concerns in this regard.

#### Waste Disposal

10.9.17 Matters relating to waste disposal can be adequately dealt with by means of condition.

### 10.10 **Material Contraventions/PA Report**

10.10.1 This is a complex file in terms of the number of material contraventions being put forward by the applicants in their Material Contravention Statement. Having regard to all of the information before me and in the interests of clarity, I will summarise the matters of material contravention, as a result, I will not reiterate the points made above, but refer to relevant sections.

10.10.2 The applicant has addressed the following matters in their submitted Material Contravention Statement:

- Building Height
- Density
- Car Parking
- Separation Distances
- Dual Aspect
- Unit Mix

The applicant has not explicitly stated that any of the above materially contravenes the operative County Development Plan but states that 'given the height, density, car parking, separation distances and proportion of dual aspect units proposed it may be



considered that the proposed development represents a material contravention to the Development Plan’.

10.10.3 While the planning authority raises concern in relation to all of the matters raised above and recommends refusal of permission on many of these grounds, they do not state that any matter represents a material contravention of the operative County Development Plan.

10.10.4 I am of the following opinion in relation to Material Contravention:

- Height- open to the Bord to invoke section 37(2)(b) of P&D Act 2000, having regard to section 37(2)(b)(i) and (iii), as matter has been addressed in Material Contravention Statement. I consider that the proposal does not represent a material contravention- see from section 10.3.14 above
- Density- open to the Bord to invoke section 37(2)(b) of P&D Act 2000 as matter has been addressed in Material Contravention Statement having regard to section 37(2)(b)(i) and (ii). I consider that the proposal does not represent a material contravention- see from section 10.2.16 above
- Car Parking- open to the Bord to invoke section 37(2)(b) of P&D Act 2000 as matter has been addressed in Material Contravention Statement having regard to section 37(2)(b)(i) and (ii). I consider that the proposal does not represent a material contravention- see from section 10.6.5 above
- Separation Distance- open to the Bord to invoke section 37(2)(b) of P&D Act 2000 as matter has been addressed in Material Contravention Statement having regard to section 37(2)(b)(i) and (ii). I consider that the proposal does not represent a material contravention- see from section 10.4.4 above
- Visual Aspect- open to the Bord to invoke section 37(2)(b) of P&D Act 2000 as matter has been addressed in Material Contravention Statement having regard to section 37(2)(b)(i) and (ii). I consider that the proposal does not represent a material contravention- see from section 10.5.28 above
- Unit Mix- open to the Bord to invoke section 37(2)(b) of P&D Act 2000 as matter has been addressed in Material Contravention Statement having regard to section 37(2)(b)(i) and (ii). I consider that the proposal does not represent a material contravention- see from section 10.5.17 above

I draw the attention of the Bord to above summary.

## 11.0 Appropriate Assessment Screening

### Context

11.0.1 A 'Stage 1- Appropriate Assessment Screening Report', has been submitted with the application. The contents of this report appear reasonable and robust. It states that having taking into consideration the foul and surface water discharges from the proposed development works, the distance between the proposed development site to designated conservation sites, the lack of direct hydrological pathway or biodiversity corridor link to conservation sites, it is concluded that this development that would not give rise to any significant effects to designated sites. The construction and operation of the proposed development will not impact on the conservation objectives of features of interest of Natura 2000 sites. On the basis of objective information the possibility of significant effects from the proposed project on European sites can be ruled out. The proposed project is not directly connected with, or necessary to the conservation management of any Natura 2000 sites and the proposed project, alone or in combination with other projects, is not likely to have significant effects on Natura 2000 sites in view of their conservation objectives.

### Designated Sites

11.0.2 The following Natura 2000 sites that are within 15km of the site and their distance from the application site are identified:

- South Dublin Bay SAC (Site Code 000210): 4.1km.
- Wicklow Mountains SAC (Site Code 002122): 9.0km.
- Knocksink Wood SAC (Site Code 000725): 7.0km.
- North Dublin Bay SAC (Site Code 000206): 9.3km.
- Glen of the Downs SAC (Site Code 000719): 12.8km.
- Ballyman Glen SAC (Site Code 000713): 6.2km.
- Rockabill to Dalkey Island SAC (Site Code 003000): 2.6km.
- Howth Head SAC (Site Code 000202): 11.5km.

- Howth Head Coast SPA (Site Code 004113): 11.9km.
- Bray Head SAC (Site Code 000714): 7.5km.
- Baldoyle Bay SAC (Site Code 000199): 14.5km.
- South Dublin Bay and River Tolka Estuary SPA (Site Code 004024): 4.1km.
- Wicklow Mountains SPA (Site Code 004040): 9.0km.
- North Bull Island SPA (Site Code 004006): 9.3km.
- Dalkey Islands SPA (Site Code 004172): 2.9km.
- Baldoyle Bay SPA (Site Code 004016): 14.5km.

#### Qualifying Interests/Special Conservation Interests

11.0.3 Qualifying Interests/Special Conservation Interests for which each European Site within 5km radius of the development site have been designated have been outlined in the AA Screening Report. The Screening Report states that Natura 2000 sites within 5km are marine based sites and there is no direct connection to these Natura 2000 sites from the proposed development site. Sites beyond 10km do not require further detailed assessment. No impacts are foreseen on sites beyond 10km as there is no direct or indirect pathway to these sites and the site is an existing developed site within an urban/suburban area with no areas that would be of utilised by the features of interest of these sites. I have also examined the NPWS website in this regard. In terms of Conservation Objectives for each site, it is noted that most designated Sites have generic conservation objectives, which seek to maintain or restore the favourable conservation condition of the habitat/species for which the Site has been selected. Detailed conservation objectives are available on [www.npws.ie](http://www.npws.ie) and I refer the Bord to same which seek to maintain and/or restore favourable conservation condition.



Table 7:

Site Code	Designated Site	Features of Interest/ Conservation objectives
0003000	Rockabill to Dalkey Island SAC	<p><u>Features of Interest</u></p> <p>Reefs [1170]</p> <p>Harbour porpoise (<i>Phocoena phocoena</i>) [1351]</p> <p><u>Conservation Objectives</u></p> <p>To maintain the favourable conservation condition of Reefs and Harbour Porpoise</p>
0000210	South Dublin Bay SAC	<p><u>Features of Interest</u></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 [2101]</p> <p>Embryonic shifting dunes [2110]</p> <p><u>Conservation Objectives</u></p> <p>To maintain the favourable conservation condition of Mudflats and sandflats not covered by seawater at low tide</p>
000713	Ballyman Glen SAC	<p><u>Features of Interest</u></p> <p>Petrifying springs with tufa formation (<i>Cratoneurion</i>) [7220]</p> <p>Alkaline fens [7230]</p> <p><u>Conservation Objectives</u></p> <p>To maintain or restore the favourable conservation condition of Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.</p>

001209	Knocksink Wood SAC	<p><u>Features of Interest</u></p> <p>Petrifying springs with tufa formation (Cratoneurion) [7220]</p> <p>Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (Alno-Padion, <i>Alnion incanae</i>, <i>Salicetum albae</i>) [91E0].</p> <p><u>Conservation Objectives</u></p> <p>To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected</p>

#### Potential Direct/Indirect Effects

- 11.0.4 It is stated that for each of these identified sites within 5km radius, there will be no direct effects as the proposed development is located outside of the designated site. The nearest European sites are Rockabill to Dalkey Island SAC (Site Code 003000) and Dalkey Islands SPA (Site Code 004172), which is located approximately 2.6 km and 2.9km distant respectively. On the north side of Dublin Bay are North Dublin Bay SAC (Site Code 000206) and North Bull Island SPA (Site Code 004006) which are located over 9 km from the proposed development site. There is no potential for meaningful connectivity to European Sites. There is no direct hydrological pathway from the proposed development site to any designated site. The documentation states that there is an indirect pathway from the site via surface water via the public surface water network and wastewater water flows to Dublin Bay via the Ringsend wastewater treatment plant. Given the distance of the designated sites from the development site, the indirect pathway and the fact that all discharges enter existing public networks, any pollutants or silt will be dispersed and diluted. There is no evidence that pollution through nutrient input is affecting the conservation objectives of designated sites. Additional loading to this plant arising from the operation of this project are not considered to be significant. Proposed upgrade works at Ringsend

wastewater treatment plant, which have the benefit of a grant of permission, will address future capacity demand.

#### Potential In-Combination Effects

11.0.5 It is stated that within the last two years, there have been two residential developments granted planning permission in the vicinity of the proposed development. Other permitted developments are minor in nature, namely alterations to existing properties and single dwelling units. It is anticipated that there will be no predicted in-combination effects given the nature and scale of the proposed development, the suburban location of the site, no direct pathway and the distance to any European sites.

#### Assessment

11.0.6 The following is noted:

- The proposed development site lies outside the boundary of a Natura 2000 site, no loss of habitat will occur. The proposed development site is located approximately 2.6km from the nearest Natura 2000 sites, across an urban/suburban environment with no direct connection to these conservation sites.
- There is no direct hydrological pathway or intact biodiversity corridor from the proposed development site to a Natura 2000 site. There are no watercourses located in the immediate environs of the proposed development site.
- In terms of foul drainage, the proposal will connect into existing public infrastructure. There is an indirect pathway via foul water network to Ringsend WWTP. Foul water from the development will be processed in the Ringsend WWTP, where any pollutants or silt will undergo treatment and be dispersed and diluted. I am of the opinion that the indirect pathway of foul water to Ringsend WWTP will not result in a significant effect on Natura 2000 sites.
- Wastewater will be directed to Ringsend WWTP and there are plans to upgrade this facility. This current proposal will have an insignificant impact on current capacity. The Ringsend WWTP is operating under licence from EPA



and that licence is itself, the subject of its own AA. There is no evidence that water quality is impacting on these aforementioned designated sites within Dublin Bay.

- Flood Risk assessment concludes that there are no significant flood risks from pluvial, fluvial or tidal sources
- No Natura 2000 sites are within the zone of influence of this development. Having taken into consideration (i) the foul and surface water discharge from the proposed development works, (ii) the distance between the proposed development site to designated conservation sites, (iii) lack of direct hydrological pathway or biodiversity corridor link to conservation sites and (iv) the dilution effect with other effluent and surface runoff, it is concluded that this development would not give rise to any significant effects to designated sites.
- There is no potential for the proposed development to contribute to any cumulative adverse impacts on any European Site
- IW have confirmed that the proposed connection to their network can be facilitated
- The previous SHD grant of permission on this site, ABP-301334-18, concluded that the Board completed an Appropriate Assessment Screening exercise in relation to the potential effects of the proposed development on designated European Sites, taking into account the nature, scale and location of the proposed development within a zoned and serviced urban area, the Stage 1 Appropriate Assessment Screening Report submitted with the application, and the Inspector's report and submissions on file. In completing the screening exercise, the Board adopted the report of the Inspector and concluded that, by itself or in combination with other development in the vicinity, the proposed development would not be likely to have a significant effect on any European Site in view of the sites' conservation objectives, and that a Stage 2 Appropriate Assessment is not, therefore, required. I do acknowledge that the scale of development has increased over what was permitted in that application, however the site characteristics remain largely

unchanged, as does the nature of the development and the distances from designated sites.

11.0.7 The proposed development site lies outside the boundaries of the Natura sites identified above and therefore there will be no reduction in habitat. The project is not directly connected with the management of any Natura 2000 site. It is concluded within the Appropriate Assessment Screening that the proposed development will have no significant impacts upon any Natura 2000 sites. Mitigation measures are referred to within some of the documentation submitted. In my mind they are not mitigation measures but constitute the standard established approach to construction works on greenfield/brownfield lands. Their implementation would be necessary for a housing development on any similar site regardless of the proximity or connections to any Natura 2000 site or any intention to protect a Natura 2000 site. It would be expected that any competent developer would deploy them for works on such similar sites whether or not they were explicitly required by the terms or conditions of a planning permission. Their efficacy in preventing the risk of a deterioration in the quality of water has been demonstrated by long usage.

11.0.8 Having regard to the 'source-pathway-receptor' model and lack of any direct entry of surface and untreated waste waters to any of the Natura 2000 sites, the proposal either individually or in combination with other plans or projects could not be considered to have likely significant effects in view of the sites' conservation objectives.

11.0.9 I have had due regard to the screening report and data used by the applicant to carry out the screening assessment and the details available on the NPWS website in respect of the Natura 2000 sites identified as being within 15km radius of the development site, including the nature of the receiving environment and proximity to the nearest European site. I consider it is reasonable to conclude that on the basis of the information on the file which includes inter alia, AA screening report submitted by the applicant and all of the planning documentation, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on any European site, in view of the said sites' Conservation

Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

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

10.7.1 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.)

10.7.2 Class 14 relates to works of demolition carried out in order to facilitate a project listed in Part 1 or Part 2 of this Schedule where such work would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7.

10.7.3 The proposed development is for 255 residential units on a site c. 2.5 ha. The site is located within the administrative area of Dun Laoghaire Rathdown County Council and is within a suburban area. The proposed development is considered to be sub-threshold in terms of EIA having regard to Schedule 5, Part 2, 10(b) (i) and (iv) of the Planning and Development Regulations 2001 (as amended).

10.7.4 The criteria at schedule 7 to the Regulations are relevant to the question as to whether the proposed sub-threshold development would be likely to have significant effects on the environment that could and should be the subject of environmental impact assessment. The application is accompanied by an EIA Screening Assessment which includes the information required under Schedule 7A to the planning regulations. The Screening Assessment states that having regard to the criteria specified in Schedule 7 of the Planning and Development Regulations, 2001; the context and character of the site and the receiving environment; the nature, extent, form and character of the proposed development; the characteristics of potential impacts; that an Environmental Impact Assessment of the proposed development is not required. I am satisfied that the submitted EIA Screening Report



identifies and describes adequately the direct, indirect, secondary and cumulative effects of the proposed development on the environment.

10.7.5 I have assessed the proposed development having regard to the information above; to the Schedule 7A information and other information which accompanied the application, *inter alia*, Appropriate Assessment Screening, Ecological Impact Assessment and landscape details and I have completed a screening assessment as set out in Appendix A.

10.7.6 The current proposal is an urban development project that would be in the built up area but not in a business district. The proposal is for 255 residential units on a stated site area of 2.5 hectares (2.39 hectares when DLRCoCo lands are excluded). The nature and size of the proposed development is well below the applicable thresholds for EIA. The residential and childcare uses would be similar to the predominant land uses in the area. The proposed development would be located on brownfield lands beside existing development. The site is not designated for the protection of a landscape. Refurbishment/restoration works are proposed for Kylemore House and gate lodge. The proposed development is not likely to have a significant effect on any Natura 2000 site. This has been demonstrated by the submission of an Appropriate Assessment Screening Report that concludes that there will be no impacts upon the conservation objectives of the Natura sites identified.

10.7.7 The development would result in works on zoned lands. The proposed development is a plan-led development, which has been subjected to Strategic Environmental Assessment. The proposed development would be a residential use, which is a predominant land use in the vicinity. The proposed development would use the municipal water and drainage services, upon which its effects would be marginal. The site is not located within a flood risk zone and the proposal will not increase the risk of flooding within the site. The development would not give rise to significant use of natural resources, production of waste, pollution, nuisance or a risk of accidents. The former use of the site is noted. The potential for contaminated material to be encountered during demolition and excavation, with the potential for impacts on the environment with regard to land and soils, was considered and assessed in the submitted Outline Construction and Demolition Waste Management Plan, and the proposal will not give rise to significant environmental impacts. The

features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the proposed Outline Construction and Environmental Management Plan (CEMP) are noted.

10.7.8 The various reports submitted with the application (as listed in section 1 of the submitted EIA screening report) address a variety of environmental issues and assess the impact of the proposed development, in addition to cumulative impacts with regard to other permitted development in proximity to the site, and demonstrate that, subject to the various construction and design related mitigation measures recommended, the proposed development will not have a significant impact on the environment. I have had regard to the characteristics of the site, location of the proposed development and types and characteristics of potential impacts. I have examined the sub criteria having regard to the Schedule 7A information and all other submissions and I have considered all information which accompanied the application including inter alia:

- Screening for Appropriate Assessment prepared by Altamar
- Ecological Impact Assessment Report, prepared by Altamar
- Architectural Report, prepared by Historic Building Consultants
- Construction Environment Management Plan prepared by Barrett Mahony
- Construction and Demolition Waste Management Plan prepared by Barrett Mahony
- Arboricultural Report prepared by The Tree File Ltd
- Landscape Report prepared by Niall Montgomery and Partners Landscape Architecture
- Property Management Strategy Report prepared by Aramark
- Landscape and Visual Impact Assessment prepared by Pleydell Smithyman Limited
- Parking Report & Residential Travel Plan prepared by Barrett Mahony and
- Traffic & Transport Assessment prepared by Barrett Mahony

10.7.9 In addition, noting the requirements of Section 299B (1)(b)(ii)(II)(C), whereby the applicant is required to provide to the Board a statement indicating how the available results of other relevant assessments of the effects on the environment carried out pursuant to European Union legislation other than the Environmental Impact Assessment Directive have been taken into account. A Sustainability Report/Energy Statement has been submitted with the application, which has been undertaken pursuant to the EU Energy Performance of Buildings Directive and requirement for Near Zero Energy Buildings. A Site Specific Flood Risk Assessment that addresses the potential for flooding having regard to the OPW CFRAMS study which was undertaken in response to the EU Floods Directive. An AA Screening Report in support of the Habitats Directive (92/43/EEC) and the Birds Directive (2009/147/EC) has been submitted with the application. An Outline Construction and Demolition Waste Management Plan has been submitted which was undertaken having regard to the EC Waste Directive Regulations 2011, European Union (Household Food Waste and Bio-waste) Regulation 2015, European Communities (Transfrontier Shipment of Waste) Regulations 1994 (SI 1111 of 1994) and to European Union (Properties of Waste which Render it Hazardous) Regulations 2015.

10.7.10 The EIA screening report prepared by the applicant has, under the relevant themed headings, considered the implications and interactions between these assessments and the proposed development, and as outlined in the report states that the development would not be likely to have significant effects on the environment. I am satisfied that all other relevant assessments have been identified for the purposes of screening out EIAR.

10.7.11 I have completed an EIA screening assessment as set out in Appendix A of this report.

10.7.12 I consider that the location of the proposed development and the environmental sensitivity of the geographical area would not justify a conclusion that it would be likely to have significant effects on the environment. The proposed development does not have the potential to have effects the impact of which would be rendered significant by its extent, magnitude, complexity, probability, duration, frequency or reversibility. In these circumstances, the application of the criteria in Schedule 7 to the proposed sub-threshold development demonstrates that it would not be likely to have significant effects on the environment and that an environmental



impact assessment is not required before a grant of permission is considered. This conclusion is consistent with the EIA Screening Statement submitted with the application.

10.7.13 I am overall satisfied that the information required under Section 299B(1)(b)(ii)(II) of the Planning and Development Regulations 2001 (as amended) have been submitted.

10.7.14 A Screening Determination should be issued confirming that there is no requirement for an EIAR based on the above considerations.

### **13.0 Conclusion and Recommendation**

13.1 In conclusion, I consider the principle of residential development to be acceptable on this site. I am of the opinion that this is a zoned, serviceable site within an established suburban area where a wide range of services and facilities exist. In my opinion, the proposal would provide a quality standard of development, in terms of finishes, materials, elevational treatments and standard of residential support facilities. An appropriate mix of units is proposed. I am satisfied with the overall number of dual aspect units, notwithstanding the inaccurate figures supplied in the documentation. I am also satisfied with the overall height proposed and I consider that the proposal is generally in compliance with the Urban Development and Building Heights, Guidelines for Planning Authorities, published by the Department of Housing, Planning and Local Government in December 2018. I am of the opinion that the applicant has adequately demonstrated that at the scale of the city and given the constraints surrounding the site, including the Protected Structure and domestic scale dwelling, that the proposed development would successfully integrate with existing development in the vicinity. It is also considered that at the scale of district/neighbourhood/street, the proposal responds well to its overall natural and built environment and makes a positive contribution to the urban neighbourhood at this location. I am also of the opinion that the proposal is in compliance with the 12 Criteria of the Urban Design Manual. I consider that the development can positively contribute to the character and identity of this evolving neighbourhood.

13.2 In terms of parking provision, I note that reduced levels of parking have been permitted on similar SHD applications within the wider area, on sites with similar

locational contexts. I consider that the reduced parking provision does not represent a material contravention of the operative County Development Plan. Given the locational context of the site, proximate to good quality public transport in an area close to high employment generation, I consider that the parking provision as proposed is acceptable. I have no information before me to believe that the proposal would lead to the creation of a traffic hazard or obstruction of road user in the vicinity.

- 13.3 For the reasons outlined above, I consider that the proposal is in compliance with the proper planning and sustainable development of the area and I recommend that permission is granted, subject to conditions set out below.

#### 14.0 Reasons and Considerations

Having regard to the following:

- (a) the site's location within an area with a zoning objective that permits residential development in principle;
- (b) the policies and objectives in the Dún Laoghaire-Rathdown County Development Plan 2016-2022;
- (c) Architectural Heritage Protection, Guidelines for Planning Authorities 2011;
- (d) the Rebuilding Ireland Action Plan for Housing and Homelessness 2016;
- (e) the Guidelines for Sustainable Residential Developments in Urban Areas and the accompanying Urban Design Manual – a Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009;
- (f) 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 December 2020;
- (g) the Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2013;
- (h) the Guidelines for Planning Authorities on Urban Development and Building Heights issued by the Department of Housing, Planning and Local Government in December 2018;
- (i) the planning history of the site;

- (j) the nature, scale and design of the proposed development and the availability in the area of a wide range of community, social, retail and transport infrastructure;
- (k) the pattern of existing and permitted development in the area;
- (l) Chief Executive Opinion and associated appendices, including their recommended reasons for refusal
- (m) the submissions and observations received, and
- (n) the report of the Inspector.

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



## **Recommended Draft Bord Order**

### **Planning and Development Acts 2000 to 2019**

#### **Planning Authority: Dún Laoghaire Rathdown County Council**

**Application** for permission under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016, in accordance with plans and particulars, lodged with An Bord Pleanála on the 25<sup>th</sup> day of March 2021 by Atlas Group Limited, care of RPS Group Ltd., West Pier Business Campus, Dublin.

#### **Proposed Development:**

A planning permission for a strategic housing development at this amalgamated site of c. 2.5ha consisting of Kylemore, Rockwinds, Smallacre and Woodlawn off Church Road; No. 43 Watson Road; and No. 66 Watson Drive in Killiney, County Dublin.

The development will consist of the construction of a residential development and a childcare facility consisting of 6 no. apartment blocks (A1, A2, B1, C1, C2, and D1) ranging from 2-6 storeys, a shared basement area under Blocks A1, B1, C1 and D1, a part basement under Block C2, 7 no. 2 storey houses, the change of use of the former Kylemore Clinic to residential and renovations to Kylemore and its associated gate lodge (both of which are proposed Protected Structures), providing a total of 255 no. units comprising 1 no. studio apartment, 98 no. 1 bed apartments, 137 no. 2 bed apartments, 12 no. 3 bed apartments and 7 no. 3 bed houses.

- Apartment Block A1 will be a 3, 5 and 6 storey block comprising 52 no. units providing 13 no. 1 bed, 35 no. 2 bed and 4 no. 3 bed units;
- Apartment Block A2 will be a 4 and 5 storey block comprising 43 no. units providing 11 no. 1 bed and 27 no. 2 bed and 5 no. 3 bed units;
- Apartment Block B1 will be a 3, 5 and 6 storey block comprising 52 no. units providing 32 no. 1 bed and 20 no. 2 bed units;
- Apartment Block C1 will be a 3, 4 and 5 storey block comprising 34 no. units providing 10 no. 1 bed, 21 no. 2 bed and 3 no. 3 bed units;

- Apartment Block C2 will be a 2, 3 and 4 storey block comprising 34 no. units providing 13 no. 1 bed and 21 no. 2 bed units;
- Apartment Block D1 will be a 2, 4 and 5 storey block comprising 29 no. units providing 1 no. studio, 18 no. 1 bed, 10 no. 2 bed units and
- a c. 242sqm childcare facility with associated outdoor play area;
- Kylemore will be renovated to provide 4 no. apartments comprising 2 no. 1 bed units, 2 no. 2 bed units and ancillary community rooms (c. 215.23sqm) at ground floor and first floor level;
- Housing units will comprise of 5 no. 2 storey 3 bed terraced houses, 1 no. 1 storey 3 bed detached house and the renovation and extension of the gate lodge on Church Road associated with Kylemore resulting in the provision of a single storey 3 bed detached house.

The development will also consist of the:

- demolition of 4 no. dwellings (Rockwinds, Woodlawn, No. 43 Watson Road and No. 66 Watson Drive), outbuildings and extensions associated with Kylemore and outbuildings, and extensions associated with the gate lodge;
- provision of a total of 220 no. car parking spaces and 548 no. bicycle parking at basement and surface level;
- provision of private open space to apartments in the form of terraces, balconies and gardens;
- provision of private open space to houses in the form of gardens;
- provision of communal and public open spaces including communal gardens, courtyards, roof terraces and play areas;
- replacement of 3 no. vehicular accesses onto Church Road with 2 no. pedestrian and bicycle accesses;
- provision of 2 no. new vehicular, pedestrian and bicycle accesses onto Watson Road;
- provision of 1 no. new pedestrian and bicycle access onto Watson Drive; and
- all associated plant, drainage arrangements, works to facilitate utility connections, 2 no. substations, sedum roofs, boundary treatment, landscaping, public lighting, refuse storage and site development works.

The application contains a statement setting out how the proposal will be consistent with the objectives of the Dún Laoghaire-Rathdown County Development Plan 2016-2022. The application contains a statement indicating why permission should be granted for the proposed development, having regard to a consideration specified in section 37(2)(b) of the Planning and Development Act 2000, notwithstanding that the proposed development materially contravenes the Dún Laoghaire-Rathdown County Development Plan 2016-2022 other than in relation to the zoning of the land.

## **Decision**

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

## **Matters Considered**

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

## **Reasons and Considerations**

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

- (a) the site location within an area with a zoning objective that permits residential development in principle;
- (b) the policies and objectives in the Dún Laoghaire-Rathdown County Development Plan 2016-2022;
- (c) Architectural Heritage Protection, Guidelines for Planning Authorities 2011;
- (d) the Rebuilding Ireland Action Plan for Housing and Homelessness 2016;
- (e) the Guidelines for Sustainable Residential Developments in Urban Areas and the accompanying Urban Design Manual – a Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009;



- (f) 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 December 2020;
- (g) the Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2013;
- (h) the Guidelines for Planning Authorities on Urban Development and Building Heights issued by the Department of Housing, Planning and Local Government in December 2018;
- (i) the planning history of the site;
- (j) the nature, scale and design of the proposed development and the availability in the area of a wide range of community, social, retail and transport infrastructure;
- (k) the pattern of existing and permitted development in the area;
- (l) Chief Executive Opinion and associated appendices, including their recommended reasons for refusal
- (m) the submissions and observations received, and
- (n) the report of the Inspector.

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

### **Appropriate Assessment Screening**

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on designated European Sites, taking into account the nature, scale and location of the proposed development

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

### **Environmental Impact Assessment Screening**

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

Having regard to: -

- (a) the nature and scale of the proposed development, which is below the threshold in respect of Class 10(i) and (ii) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- (b) Class 14 of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended
- (c) the location of the site on lands zoned to protect and provide for residential uses in the Dun Laoghaire County Development Plan 2016-2022, and the results of the Strategic Environmental Assessment of the plan;
- (d) The existing use on the site and pattern of development in surrounding area;
- (e) The planning history relating to the site
- (f) The availability of mains water and wastewater services to serve the proposed development,
- (g) the location of the development outside of any sensitive location specified in article 299(C)(1)(v) of the Planning and Development Regulations 2001 (as amended)
- (h) 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),

(i) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended), and

(j) The features and measures proposed by applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the proposed Outline Construction and Environmental Management Plan (CEMP) .

It is considered that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an environmental impact assessment report would not therefore be required.

### **Conclusions on Proper Planning and Sustainable Development**

The Board considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would respect the existing character of the area and the architectural heritage of the site, and would be acceptable in terms of pedestrian and traffic safety and convenience. The Board agreed with the Inspector's conclusion, that the proposed development does not represent a material contravention of the operative County Development Plan. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

### **Conditions**

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



particulars.

**Reason:** In the interest of clarity.

2. Prior to commencement of development, revised details shall be submitted to and agreed in writing with the planning authority with regard to the following:

(a) revised plans and particulars showing an improved pedestrian priority at the proposed access onto Watson Road, to include 2m wide footpaths on either side of proposed access road

(b) Revised design of proposed basement areas, which address concerns on planning authority. In addition, details to ensure all basement and surface parking are constructed so as to accommodate future electric charging points for electrically operated vehicles.

(c) details of proposed green roofs

(d) All rear gardens of houses shall be bounded by concrete block walls, 1.8 metres high, which shall be rendered on both sides and capped. Concrete post and timber panels shall not be used

(e) Full details of the boundary along Church Road which shall be set back/constructed behind the Church Road reservation line to accommodate the future R118 Wyattville Road to Glenageary Road upgrade and Quality Bus Corridor.

(f) Revised elevational drawings for Block D1 showing all windows on southern elevation to be high level

(g) Relocation of playground from SW of Block C2 to another location, to be agreed in writing with planning authority

(h) Privacy screens between balconies of apartments

**Reason:** In the interests of proper planning and sustainable development, to

safeguard the amenities of the area and to enhance permeability

3. Pedestrian and cyclist linkages from Watson Drive to Church Road and all other access points and public open space areas shall be permanently made available for public use at all times upon the first occupation of the proposed residential development unless otherwise agreed in writing with the planning authority.

**Reason:** To enhance pedestrian and cyclist permeability and in the interests of clarity.

4. Details of the materials, colours and textures of all the external finishes to the proposed buildings shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. In this regard, the extensive use of render of Block D1 shall be omitted from the proposal and replaced with a more durable finish. The roofs of the proposed houses shall be blue black or slate grey only in colour including ridge tiles.

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

5. Prior to commencement of development, the developer shall submit to the planning authority a schedule of ecological proposals as detailed in the Ecological Impact Assessment Report and the Construction Environmental Management Plan submitted with the application. The schedule shall set out the timeline for implementation of each proposal and assign responsibility for implementation. All of the proposals shall be implemented in full and within the timescales stated.

**Reason:** In the interests of clarity, protection of the environment and the proper planning and sustainable development of the area.

6. A suitably qualified ecologist shall be appointed by the developer to oversee the site set-up and construction of the proposed development and the ecologist shall be present on site during construction works. The ecologist shall ensure the implementation of all proposals contained in the Schedule of Ecological proposals. Prior to commencement of development, the name and contact details of said

person shall be submitted to the planning authority. Upon completion of works, an audit report of the site works shall be prepared by the appointed ecologist and submitted to the planning authority to be kept on record.

**Reason:** In the interest of nature conservation.

7. The developer shall provide for the following to the planning authority for its written agreement before the commencement of any clearance or development works on site:
- (i) A badger conservation plan for the site to include results of a new badger survey of the site, a methodology for the protection of the setts to be retained on the southern boundary of the site of the former 'Kylmore' grounds, measures in relation to monitoring, exclusion and destruction of any other setts located on the site and a programme for the implementation of such measures. In the event of an active breeding/main sett is located on the site other than on the southern boundary, this plan shall provide for the implementation of an exclusion zone around it for a radius of 50m over the period December to June, and for the subsequent exclusion or removal; of the badgers from this sett
  - (ii) The developer shall submit a bat conservation plan for the site to include results of new bat activity and roost surveys of the site and measures to avoid injury to bats during tree felling or demolition works on site. If a bat roost is identified in a building or tree to be removed on site, a licence from the NPWS to derogate from the Habitats Directive to destroy the bat roost should accompany this plan
  - (iii) Any clearance of trees or shrubs from the development site shall only be carried out in the period September to February inclusive, namely outside of the main bird breeding season

**Reason:** To avoid injury or death of individuals of a mammal species, namely badger and bat species, protected under the Wildlife Act 1976 to 2018 and Habitats



Directive (92/43/EEC) respectively and to avoid destruction of bird nests, eggs and nestlings.

8. Prior to commencement of development, the developer shall provide for the following:

(a) The appointment of a conservation architect, who shall manage, monitor and implement works on the site and ensure adequate protection of the historic fabric during those works.

(b) The submission of details of all finishes and of all existing original features to be retained and reused where possible.

(c) The submission of a method statement and specifications for the repair work to Kylemore House and Gate Lodge.

(d) All repair/restoration works shall be carried out in accordance with best conservation practice as detailed in the application and the Architectural Heritage Protection Guidelines for Planning Authorities issued by the Department of Arts, Heritage and the Gaeltacht in October 2011. The repair/restoration works shall retain the maximum amount possible of surviving historic fabric in-situ including structural elements, plasterwork and joinery and shall be designed to cause minimum interference to the building structure and/or fabric.

**Reason:** To ensure that the integrity of the historic structures is maintained and that the structures are protected from unnecessary damage or loss of fabric.

9. The internal road network, public footpaths within and outside the proposed development site, including car parking provision to service the proposed development, shall comply with the requirements of the planning authority for such works. In this regard:

(a) 3 No. car parking spaces shall be reserved for communal car sharing use only

and shall be clearly delineated and signed for such use;

- (b) All other car parking spaces, with the exception of visitor parking, shall be sold with the residential units and shall not be sold separately or let independently;
- (c) The applicant shall ensure that all future occupiers shall be made aware of the restricted car parking/car storage provision and lack of car parking entitlement;
- (d) All of the parking areas serving the apartments shall be provided with electric vehicle charging points. Details of how it is proposed to comply with these requirements, including details of design of, and signage for, the electrical charging points shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

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

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

11. (a) Prior to commencement of development, all trees, groups of trees, hedging and shrubs which are to be retained shall be enclosed within stout fences not less than 1.5 metres in height. This protective fencing shall enclose an area covered by the crown spread of the branches, or at minimum a radius of two metres from the trunk

of the tree or the centre of the shrub, and to a distance of two metres on each side of the hedge for its full length, and shall be maintained until the development has been completed.

- (b) No construction equipment, machinery or materials shall be brought onto the site for the purpose of the development until all the trees which are to be retained have been protected by this fencing. No work is shall be carried out within the area enclosed by the fencing and, in particular, there shall be no parking of vehicles, placing of site huts, storage compounds or topsoil heaps, storage of oil, chemicals or other substances, and no lighting of fires, over the root spread of any tree to be retained.

**Reason:** To protect trees and planting during the construction period in the interest of visual amenity.

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

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

13. 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 and surface water management.

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

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

15. Proposals for the development name, apartment numbering scheme and associated



signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all signs, and apartment numbers, shall be provided in accordance with the agreed scheme. The proposed 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 placenames for new residential areas.

16. The development shall be carried out on a phased basis, in accordance with a phasing scheme which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of any development.

**Reason:** To ensure the timely provision of services and facilities, for the benefit of the occupants of the proposed dwellings.

17. 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.

18. 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, inter alia: details and location of proposed construction compounds, details of intended construction practice for the development, including hours of working, noise and dust management measures, details of arrangements for routes for construction traffic, parking during the construction phase, and off-site

disposal of construction/demolition waste.

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

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

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

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

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

21. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

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

22. 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.

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

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

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

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

24. 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.

25. 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.

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

Scheme.

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

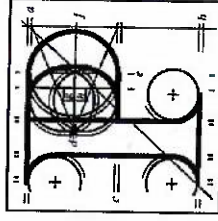
Lorraine Dockery 25/06/2021

Lorraine Dockery

Senior Planning Inspector

25<sup>th</sup> June 2021

# Appendix A: EIA Screening Form



An  
Bord  
Pleanála

## EIA - Screening Determination for Strategic Planning and Development Applications

### A. CASE DETAILS

An Bord Pleanála Case Reference

ABP-309807-21

Development Summary

Demolition of 4 dwellings and construction of 255 residential units, childcare facility and associated site works.

Yes / No /  
N/A

1. Has an AA screening report or NIS been submitted?

An EIA Screening Report and a Stage 1 AA Screening Report was submitted with the application

2. Is a IED/ IPC or Waste Licence (or review of licence) required from the EPA? If YES has the EPA commented on the need for an EIAR?	No	
3. Have any other relevant assessments of the effects on the environment which have a significant bearing on the project been carried out pursuant to other relevant Directives (for example SEA	Yes	SEA undertaken in respect of the Dun Laoghaire County Development Plan 2016-2022

B. EXAMINATION	Yes/ No/ Uncertain	Briefly describe the nature and extent of the impacts and Mitigation Measures (where relevant)	Is this likely to result in significant effects on the environment? Yes/ No/ Uncertain
		(having regard to the probability, magnitude (including population size affected), complexity, duration, frequency, intensity, and reversibility of impact)	



		Mitigation measures –Where relevant specify features or measures proposed by the applicant to avoid or prevent a significant effect.	
<b>1. Characteristics of proposed development (including demolition, construction, operation, or decommissioning)</b>			
<b>1.1</b> Is the project significantly different in character or scale to the existing surrounding or environment?	No	The development comprises the refurbishment/restoration of a period building and construction of residential units on lands zoned residential in keeping with residential development in the vicinity.	No
<b>1.2</b> Will construction, operation, decommissioning or demolition works cause physical changes to the locality (topography, land use, waterbodies)?	Yes	The proposal includes construction of an apartment complex/dwellings/crèche which are not considered to be out of character with the pattern of development in the surrounding area.	No

<p><b>1.3 Will construction or operation of the project use natural resources such as land, soil, water, materials/minerals or energy, especially resources which are non-renewable or in short supply?</b></p>	<p><b>Yes</b></p>	<p>No</p>
<p><b>1.4 Will the project involve the use, storage, transport, handling or production of substances which would be harmful to human health or the environment?</b></p>	<p><b>Yes</b></p>	<p>No</p>

Construction materials will be typical of such urban development. The loss of natural resources or local biodiversity as a result of the development of the site are not regarded as significant in nature.

Construction activities will require the use of potentially harmful materials, such as fuels and other such substances. Such use will be typical of construction sites. Any impacts would be local and temporary in nature and implementation of a Construction and Environmental Management Plan will satisfactorily mitigate potential impacts. No operational impacts to this regard are anticipated.

<p><b>1.5 Will the project produce solid waste, release pollutants or any hazardous / toxic / noxious substances?</b></p>	<p><b>Yes</b></p>	<p><b>No</b></p>
		<p>Construction activities will require the use of potentially harmful materials, such as fuels and other such substances and give rise to waste for disposal. Such use will be typical of construction sites. Noise and dust emissions during construction are likely. Such construction impacts would be local and temporary in nature and implementation of a Construction and Environmental Management Plan will satisfactorily mitigate potential impacts. Operational waste will be managed via a Waste Management Plan to obviate potential environmental impacts. Other significant operational impacts are not anticipated.</p>

<p><b>1.6 Will the project lead to risks of contamination of land or water from releases of pollutants onto the ground or into surface waters, groundwater, coastal waters or the sea?</b></p>	<p><b>No</b></p>	<p><b>No significant risk identified. Operation of a Construction Environmental Management Plan will satisfactorily mitigate emissions from spillages during construction. There is no direct connection from the site to waters. The operational development will connect to mains services. Surface water drainage will be separate to foul services.</b></p>	<p><b>No</b></p>
<p><b>1.7 Will the project cause noise and vibration or release of light, heat, energy or electromagnetic radiation?</b></p>	<p><b>Yes</b></p>	<p>Potential for construction activity to give rise to noise and vibration emissions. Such emissions will be localised, short term in nature and their impacts may be suitably mitigated by the operation of a Construction Environmental Management Plan.</p>	<p>Management of the scheme in accordance with an agreed Management</p>



	Plan will mitigate potential operational impacts.	
<p>1.8 Will there be any risks to human health, for example due to water contamination or air pollution?</p>	<p>Construction activity is likely to give rise to dust emissions. Such construction impacts would be temporary and localised in nature and the application of a Construction Environmental Management Plan would satisfactorily address potential impacts on human health.</p> <p>No significant operational impacts are anticipated.</p>	No

1.9 Will there be any risk of major accidents that could affect human health or the environment?	No	No significant risk having regard to the nature and scale of development. Any risk arising from construction will be localised and temporary in nature. The site is not at risk of flooding. There are no Seveso / COMAH sites in the vicinity of this location.	No
1.10 Will the project affect the social environment (population, employment)	Yes	Redevelopment of this site as proposed will result in an increase in residential units of 251 no. units (255-4) which is considered commensurate with the redevelopment of a residentially zoned site in the Metropolitan area	No
1.11 Is the project part of a wider large scale change that could result in cumulative effects on the environment?	No	Standard development, with minor developments in the immediately surrounding area.	No
2. Location of proposed development			

<p><b>2.1 Is the proposed development located on, in, adjoining or have the potential to impact on any of the following:</b></p> <ol style="list-style-type: none"> <li>1. European site (SAC/ SPA/ pSAC/ pSPA)</li> <li>2. NHA/ pNHA</li> <li>3. Designated Nature Reserve</li> <li>4. Designated refuge for flora or fauna</li> <li>5. Place, site or feature of ecological interest, the preservation/conservation/ protection of which is an objective of a development plan/ LAP/ draft plan or variation of a plan</li> </ol>	<p><b>No</b></p>	<p><b>No</b></p>
<p><b>2.2 Could any protected, important or sensitive species of flora or fauna which use areas on or around the site, for example: for</b></p>	<p><b>No</b></p>	<p><b>No</b></p>

breeding, nesting, foraging, resting, overwintering, or migration be affected by the project?			
2.3 Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?	No	A period property is located within the site with proposals for its refurbishment/restoration. The design and layout of the scheme considers all these built environment issues and mitigation measures are in place to address concerns.	No
2.4 Are there any areas on/around the location which contain important, high quality or scarce resources which could be affected by the project, for example: forestry, agriculture, water/coastal, fisheries, minerals?	No	There are no areas in the immediate vicinity which contain important resources.	No



2.5 Are there any water resources including surface waters, for example rivers, lakes/ponds, coastal or groundwaters which could be affected by the project, particularly in terms of their volume and flood risk?	No	There are no connections to watercourses in the area. The development will implement SUDS measures to control surface water run-off. The site is not at risk of flooding.	
2.6 Is the location susceptible to subsidence, landslides or erosion?	No	There is no evidence in the submitted documentation that the lands are susceptible to lands slides or erosion and the topography of the area is flat.	No
2.7 Are there any key transport routes(eg National Primary Roads) on or around the location which are susceptible to congestion or which cause environmental problems, which could be affected by the project?	No	The site is served by a local urban road network.	No
2.8 Are there existing sensitive land uses or community facilities (such as hospitals,	Yes	There is no existing sensitive land uses or substantial community uses which could be affected by the project.	No

schools etc) which could be affected by the project?		
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3. Any other factors that should be considered which could lead to environmental impacts		
3.1 Cumulative Effects: Could this project together with existing and/or approved development result in cumulative effects during the construction/ operation phase?	No	No
3.2 Transboundary Effects: Is the project likely to lead to transboundary effects?	No	No
3.3 Are there any other relevant considerations?	No	No

C. CONCLUSION		
No real likelihood of significant effects on the environment.	Yes	EIAR Not Required

Real likelihood of significant effects on the environment.	No		
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DECISION QUASHED

#### D. MAIN REASONS AND CONSIDERATIONS

Having regard to: -

- (a) the nature and scale of the proposed development, which is below the threshold in respect of Class 109(i) and (iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- (b) Class 14 of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended
- (c) the location of the site on lands zoned to protect and provide for residential uses in the Dun Laoghaire County Development Plan 2016-2022, and the results of the Strategic Environmental Assessment of the plan;
- (d) The existing use on the site and pattern of development in surrounding area;
- (e) The planning history relating to the site
- (f) The availability of mains water and wastewater services to serve the proposed development,
- (g) the location of the development outside of any sensitive location specified in article 299(C)(1)(v) of the Planning and Development Regulations 2001 (as amended)
- (h) 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),
- (i) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended), and
- (j) The features and measures proposed by applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the proposed Construction Management Plan (CMP)



It is considered that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an environmental impact assessment report would not therefore be required.

Inspector:

*Lorraine Dockery*  
Lorraine Dockery

Date:

*25/06/2021*

END

DECISION QUASHED

**DECISION QUASHED**