

An  
Bord  
Pleanála

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

### Inspector's Report ABP-309828-21

**Strategic Housing Development**

445 no. Build to Rent apartments

**Location**

Sector 3, Aiken's Village, Townland of  
Woodside and Kilgobbin, Stepside,  
Dublin 18.

**Planning Authority**

Dun Laoghaire Rathdown County  
Council

**Applicant**

Ironborn Real Estate Limited

**Prescribed Bodies**

Irish Water

Inland Fisheries Ireland

## Observers

Adrienne and John Dempsey  
Áine Doohan  
Aine O'Donnell  
Aine O'Mahony  
Alan Curran  
Alan Dwyer  
Ana Fernandez  
Ana Romo  
Andrew Mortimer  
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Anna Manahan  
Anne Murphy  
Annette Byrne AND Graham Ryan  
Aoife Ni Fhearghail  
Bairbre Ní Ghoill  
Barrie McElhinny  
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Damien O'Dowd

Daniel Billingham

Darren Connolly

Darren Donaldson

David Horgan

David Hurley

David Ronaldson

Deirdre Ni Chuilleanain

Denis O'Donnell

Derek Caswell

Diane Hayes

Eamon Dempsey

Edmund Connolly

Eily Hsu

Eimear Breheny

Eimear Lynch and Ross O'Brien

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Elisa McSweeney

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Fergal O'Beirne  
Fernleigh Residents Association  
Fiona Murphy  
Francesco and Iwona Gruosso  
Frank Kenny  
Franz Eiffe and Stefania Romanisio  
Garath and Nicola Scully  
Gary Curran  
Helen Blyth  
Helen Roe  
Ian and Caroline Corr  
Jackie and Sean Hayes  
James Leonard  
Jane Hingerty  
Janet O Donovan  
Jason O'Regan  
Jeff White  
Jennifer Corrigan  
Jennifer Martin  
Jenny Finegan Coleman  
Joanne Horgan  
Joe Fagan  
John and Gillian Searson  
John Coffey



John Feely  
John O'Shea and Ana Merino  
John Perry  
John Valentine and Sarah McErlane  
Joseph Mulhern  
Josepha Madigan  
Josh Hayes  
June O'Dowd  
Karen Whitaker  
Kate Curran  
Keith O'Leary and Joanne Cavanagh  
Kerry Hannon O'Carroll  
Kevin Ellis  
Kieran and Alma Conway  
Lara Grey and Liam Thompson  
Laura Greene  
Laurence Vincent Keaveny  
Leopardstown Heights Residents  
Lisa Peilow  
Linda Corbett  
Linda Mullane  
Marc Freyne  
Marc Mulligan  
Marc Ryberg  
Margaret Fox  
Maria Coffey  
Maria Kazuro

Maria O'Donnell  
Marie-Louise O'Reilly and John Moher  
Mark and Fiona Fox  
Mark Gogarty  
Mark Kane  
Martin and Clare Judge  
Martin O'Keeffe  
Mary Corkery  
Maurice O'Dea  
Maurice O'Gorman  
Melanie Ryberg  
Melissa Moloney and Jim McDermott  
Michael Martin  
Miriam McCarthy  
Mr. and Mrs. Martin  
Niamh and Eimear Fitzpatrick  
Niamh and Eoin McGuinn  
Nick Fingleton  
Nicki Cox  
Nicole Constant and Mark Forsyth  
Patricia Stronge  
Patrick Hughes  
Patrick Kenny  
Paul Finn  
Paul Humphries  
Pauline McCarthy  
Peader O'Mahony  
Pete Luffrum

Peter Cox  
Piero Tintori  
Raman Malashchanka  
Ray Coleman  
Renée Moore  
Richard and Joan Donnelly  
Rob Corbet  
Ronan Flannery  
Sandra Dempsey  
Sandyford Hall Residents Association  
Sara de Villiers  
Sheelagh O'Brien and Brendan Delaney  
Simon Spendlove  
Sinead Fagan  
Stewart Stephens  
Tara Mulhern  
Tracey Hayes  
Vanessa Ellis  
Victoria Jones  
Wendy Walker and Kevin McFall

**Date of Site Inspection**

11<sup>th</sup> June 2021 & 01<sup>st</sup> July 2021

**Inspector**

Rónán O'Connor

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## 1.0 Introduction

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

## 2.0 Site Location and Description

- 2.1.1. The subject site comprises of a larger parcel of land bounded by Atkinson Drive to the west, Thornberry Road to the north, Village Road to the south/southwest, open space and a pedestrian walkway to the south and a treelined boundary to the east, and also of a smaller parcel of land to the south of Grianan Fidh, an existing residential development. This smaller portion of land is located within an existing area of open space under the ownership of Dun Laoghaire-Rathdown County Council. The entire area of the site is c.3.39 ha and is located within the residential area of Aikens Village, Stepside, Co. Dublin. The larger portion of the site fronts onto and is accessed from Village Road, a spine street that flows through the centre of the Aikens Village/Belarmine settlement. Atkinson Drive, along the west is a connecting street that provides access to the residential estate at Thornberry, recently completed.
- 2.1.2. There is a wide range and mix of unit types in the vicinity. The dwellings in the immediate vicinity of the site consist mostly of two and three storey semi-detached dwellings with three and four storey apartment units across open space to the south, and to the south-west of the site. An undeveloped site and the location of an underground reservoir is located to the west of the site, across Atkinson Drive.
- 2.1.3. Glencairn Luas stop is c900m to the east. Belarmine Plaza is located within 500m with a range of services and retail units. Two new national schools are located west of the plaza centre. Sandyford Hall is 300m to the south-east which has a small parade of shops and services.
- 2.1.4. At present, the larger portion of the subject site comprises a former building site compound, with a number of spoil heaps and internal dirt roadways. The site comprises of scrub vegetation for the most part, with a small number of semi-mature trees. The site slopes downwards from the north to the south, a change in level that



is noticeable but not severe. The eastern boundary of the larger portion of the site to Ferncarrig Avenue estate comprises a wall with mature trees and hedging beyond.

### 3.0 Proposed Strategic Housing Development

3.1.1. The development will consist of: -

- 445no. 'Build-to-Rent' apartment units (158no. 1 bedroom units and 287no. 2 bedroom units) arranged in 9 no. blocks ranging in height from 2 – 8 storeys over 2no. independent single level basements. Private patios / terraces and balconies are provided for all apartment units. Upper level balconies are proposed on elevations of all multi-aspect apartment buildings.
- Blocks A – D are located above Basement 1 (5,949 sq. m gross floor area) and Blocks F – J are above Basement 2 (5,058 sq. m gross floor area).
- Provision 1 no. childcare facility (c. 514.9 sq. m gross floor area) in Block D.
- Provision of resident amenity space / communal areas (c. 1,455.7 sq. m gross floor area) in Block C and Block G.
- And all associated and ancillary site development, infrastructural, landscaping and boundary treatment works including: -
  - New vehicular access to / from Basement 1 from Atkinson Drive and new vehicular access to / from Basement 2 from Thornberry Road.
  - Provision of c. 9,799 sq. m public open space, including a public plaza onto Village Road and improvement works to existing open space area to the north of existing Griannan Fidh residential development.
  - Provision of 354no. car parking spaces including basement parking, set down spaces for proposed childcare facility and repositioning of set down area on Atkinson Drive.
  - Provision of 638no. bicycle parking spaces.
  - Provision of 14no. motorcycle parking spaces.
  - Communal bin storage and plant provided at basement level and additional plant provided at roof level.



- Provision of below ground wastewater storage tank (c. 500m<sup>3</sup>) and associated connection to the wastewater networks including ancillary above ground kiosk and appropriate landscaping on open space lands to the south of Griannan Fìdh residential development

### Key Figures

Site Area	c. 3.39 Ha (includes open space lands under the control of DLRCC)/c2.84 Ha (residential site only)
No. of units	445 no. 'Build-to-Rent' apartment units
Density	156 unit/ha
Height	9 no. blocks ranging in height from 2 – 8 storeys
Public Open Space	4,930 sq. m.
Communal Space	4,579 sq. m.
Part V	44 no. units
Vehicular Access	2 no. access points from Atkinson Drive and Thornberry Road
Car Parking	354 no. spaces
Bicycle Parking	638 no. spaces
Other uses	Creche 514.9 sq. m.

Apartment Type	1 bed	2 bed	3+ bed	Total
No. of Apts	158	287	0	445
As % of Total	35.5%	64.5%	0	100%

## 4.0 Planning History

### On Site

306471 - Strategic Housing Development – Application – 444 no. apartments, childcare facility and associated site works

Refuse Permission for 2 no. reasons:

1. Having regard to the existing deficiency in the provision of adequate wastewater infrastructure serving the subject site and the lack of certainty in relation to the wastewater network capacity to accommodate the proposed development without increasing the risk of flooding, it is considered that the proposed development would be premature by reference to the existing deficiencies in the provision of wastewater facilities and the period within which this constraint may reasonably be expected to cease. The proposed development would, therefore, be prejudicial to public health and would be contrary to the proper planning and sustainable development of the area.
2. The “Urban Design Manual – a Best Practice Guide” issued by the Department of the Environment, Heritage and Local Government in 2009, to accompany the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas includes key criteria such as connections and inclusivity. At the neighbourhood level it is considered that the proposed development has failed to successfully address the criteria of connections and inclusivity. The arrangement of apartment blocks and the position of Blocks E and K, in particular, decreases the availability of attractive routes in and out of the development for pedestrians and cyclists. The main central area described as public open space is not readily accessible with Blocks E and K presenting an unnecessary physical and visual barrier to the space, which is considered would be seriously injurious to the residential amenities of future occupants and contrary to the provisions of the “Urban Design Manual – a Best Practice Guide” and to Policy UD 1 – Urban Design Principles of the Dún Laoghaire Rathdown County Development Plan 2016-2022.

The positioning of apartment blocks also results in sub-optimal separation distances between some blocks and fails to ensure high quality living

environments for some apartment units that rely on single aspect and, as such, would be contrary to the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities issued by the Department of the Housing, Planning and Local Government in March 2018 with regard to living spaces that should provide for direct sunlight for some part of the day has not been met satisfactorily.

The proposed development would, therefore, seriously injure the residential amenities of future occupants, would be contrary to these Ministerial Guidelines and would be contrary to the proper planning and sustainable development of the area.

**D16A/0511** - A revised scheme within the development Belmont as granted under D10A/0440 / ABP Ref. PL06D.239332, 11 residential blocks comprising 243 apartments and duplexes ranging in height from 3 – 6 storeys; as well as other ancillary services.

**D10A/0440** - (Parcel 3 & 5, Stepside AAP) 410 residential units comprising 206 houses and 204 apartment units. There were 121 units permitted in Sector 3 (the current application site)

#### Other Relevant SHD Developments

APB Ref 307415 Lisieux Hall, Murphystown Road, Leopardstown, Dublin 18. Grant permission for 200 no. apartments, creche and associated site works. Decision Date 06/10/2020.

## 5.0 Section 5 Pre Application Consultation

5.1.1. A section 5 Consultation meeting took place via Microsoft Teams on the 4<sup>th</sup> November 2020 in respect of the following development:

436 no. apartments, creche and associated site works.

5.1.2. In the Notice of Pre-Application Consultation Opinion dated 16<sup>th</sup> November 2020 (ABP Ref. ABP-307684-20) the Board stated that it was of the opinion that the documentation submitted with the consultation request under section 5(5) of the Act required further consideration and amendment in order to constitute a



reasonable basis for an application under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016.

- 5.1.3. In the opinion of An Bord Pleanála, the following issue needed to be addressed in the documents submitted to which section 5(5) of the Act of 2016 relates that could result in them constituting a reasonable basis for an application for strategic housing development:

1. Foul Water and Storm Water

Further consideration of the documents as they relate to foul water and storm water drainage proposals to service the development. The documents should provide details of necessary upgrade works required to facilitate the development to include, *inter alia*: plans and particulars, having regard to the concerns raised by the Drainage Department in Appendix B of the Planning Authority Submission and Irish Water report dated 24<sup>th</sup> August 2020, in particular, survey details of existing services traversing the site, the submission of attenuation details, storm network calculations, and the necessity to prevent any adverse impact on the surrounding area. Detailed design proposals for the overflow storage tank demonstrating measures employed to ensure that the storage tank would not lead to pollution of the detention basin serving the adjacent development and the surface water network.

Clarity is to be provided concerning how the proposed wastewater storage tank ties in with the network upgrade works; who is to deliver the works; the status of any planning and other consents required to deliver the infrastructure; the timelines involved in the delivery of the required infrastructure in the context of the proposed strategic housing development.

- 5.1.4. The prospective applicant was notified that the following specific information should be submitted with any application for permission:

- Visual Impact/ CGIs and photomontages, sections and continuous elevations where relevant, of the main elevation treatment including but not restricted to the following:
  - Block C,D & E and the relationship with the open space to the south east and Village Road, Block B & C and the relationship between the ground floor and undercroft parking and the treatment along Atkinson

Road, Block A/B & Block G/F and the relationship between the ground floor and undercroft parking and the treatment along Thornbury Road.

- A detailed schedule of accommodation which indicates consistency with relevant standards and SPPRs in the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities' (2018) including a report (Site Specific Management Plan) which addresses the use of the residential support facilities and amenity areas.
- A comprehensive daylight and sunlight analysis addressing existing residential units in proximity to the site and proposed units and open spaces within the development. A comprehensive justification is required for any proposed north facing single aspect units.
- The inclusion of all works to be carried out, and the necessary consents to carry out works on lands, within the red line boundary.
- Submission of a Taking in Charge map.
- Comprehensive Flood Risk Assessment including proposals to address the location of the foul overflow storage tank in close proximity to detention basin serving an adjacent development.
- Details of all materials proposed for buildings, open spaces, paved areas, boundary and retaining walls and a building life cycle report in accordance with section 6.3 of the Sustainable Urban Housing: Design Standards for New Apartments (2018).
- Details of the operational management provisions for the shared facilities/Amenities
- Details of Part V provision clearly indicating the proposed Part V units.
- Childcare demand analysis, including but not restricted to the justification for size of the proposed crèche, having regard to the existing childcare facility in the vicinity of the site, the likely demand and use for childcare places and the accommodation of additional requirement resulting from the proposed development.

- Inclusion of a Social and Community Audit of the schools in the vicinity in particular school going children and the accommodation of additional requirement resulting from the proposed development.
- A landscape and permeability plan of the proposed open space within the site clearly delineating public, semi-private and private spaces, areas to be gated, treatment of interface areas and provision of future connections to adjoining lands.
- Submission of a Traffic and Transport Assessment to include car parking and cycle parking rationale.
- The information referred to in article 299B (1)(b)(ii)(II) and article 299B(1)(c) of the Planning and Development Regulations 2001-2018 should be submitted as a standalone document.

## 5.2. Applicant's Statement

- 5.2.1. The application includes a statement of response to the pre-application consultation (Response to the Opinion), as provided for under section 8(1)(iv) of the Act of 2016, which may be summarised as follows:

### Item 1 – Foul Water and Storm Water

- Refer the Board to Drainage Design Report and the Surface Water and Foul Drainage Drawings/set out the detail in relation to water and drainage infrastructure requirements and design proposals for this scheme.
- Refer the Board to the Statement of Design Acceptance from Irish Water
- Surface Water Drainage Design - detailed dialogue with DLRCC Drainage Department/request was made to provide additional attenuation volume within the application site to accommodate for an existing occupied development/Proposed to provide the attenuation and flood storage of all storm water runoff up to 1 in 100-year return period events of all duration on the proposed site/total volume of the attenuation and flood storage for the proposed development is 1,780m<sup>3</sup>./provided via the existing c. 1,113m<sup>3</sup> underground concrete tank located to the south of Block E and a proposed new c. 667m<sup>3</sup> underground concrete tank located in the open green space between Block D &



Block H/The surface water runoff generated from the proposed development will discharge from site through an existing storm water drainage network and through an existing flow control device (limiting the site runoff to QBAR= 53.3l/s) using an existing connection to the Local Authority storm water drainage network along Village Road/A Stage 1 Storm Water Audit has been submitted which recommended a filtration / interception trench has been provided to prevent surface water runoff from the green areas being conveyed off site unattenuated – this now forms part of the surface water drainage design

#### Response to Specific Information

- The applicant has responded to each item of Specific Information as detailed in the Response to the Opinion.

#### **Material Contravention Statement**

5.2.2. The applicant has submitted a Material Contravention Statement which refers to potential material contraventions of:

- Building Height Strategy – Appendix 9 of Dun Laoghaire Rathdown Development Plan 2016 – 2022.
- Dwelling Mix - Section 8.2.3.3 of the Dun Laoghaire-Rathdown County Development Plan 2016 – 2022.

5.2.3. Section 5 of the Material Contravention Statement sets out the 'Justification for Material Contravention Statement'. In relation to height, it is stated the project is of both strategic and national importance, that it complies with the provisions of the NPF and of the Urban Development and Building Height Guidelines, including the Criteria as set out in Section 3.2 of the Guidelines.

5.2.4. In relation to dwelling mix, it is stated that the proposal complies with the provisions of the NPF and it provides an appropriate mix for the wider area. Reference is made to SPPR 1 of the Apartment Guidelines and it is stated that the proposal is compliant with same, notwithstanding the Build to Rent nature of the proposed development.

5.2.5. It is further stated that there has been significant development within the Aiken Village / Belarmine area which has seen a general intensification of such areas in proximity of high frequency public transport and that the granting of permission can

be justified by reference to the pattern of development, and permissions granted, in the area since the making of the development plan.

## 6.0 Relevant Planning Policy

### 6.1. National Planning Framework

The National Planning Framework supports increases in densities generally, facilitated in part by increased building heights. It is set out that general restrictions on building heights should be replaced by performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth (NPO Objectives 13 and 35 refer). Objective 27 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. Objective 33 seeks to prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.

### 6.2. Regional Policy

#### Regional Spatial and Economic Strategy for the Eastern and Midland Region 2019-2031 (RSES)

The primary statutory objective of the Strategy is to support implementation of Project Ireland 2040 - which links planning and investment through the National Planning Framework (NPF) and ten year National Development Plan (NDP) - and the economic and climate policies of the Government by providing a long-term strategic planning and economic framework for the Region.

- RPO 3.2 - Promote compact urban growth - targets of at least 50% of all new homes to be built, to be within or contiguous to the existing built up area of Dublin city and suburbs and a target of at least 30% for other urban areas.
- RPO – 4.1 – Settlement Hierarchy – Local Authorities to determine the hierarchy of settlements in accordance with the hierarchy, guiding principles and typology of settlements in the RSES.

- RPO 4.2 – Infrastructure – Infrastructure investment and priorities shall be aligned with the spatial planning strategy of the RSES.

The site lies within the Dublin Metropolitan Area (DMA) – The aim of the Dublin Metropolitan Area Strategic Plan is to deliver strategic development areas identified in the Dublin Metropolitan Area Strategic Plan (MASP) to ensure a steady supply of serviced development lands to support Dublin's sustainable growth.

Key Principles of the Metropolitan Area Strategic Plan include compact sustainable growth and accelerated housing delivery, integrated Transport and Land Use and alignment of Growth with enabling infrastructure.

#### Transport Strategy for the Greater Dublin Area 2016-2035

The Transport Strategy for the Greater Dublin Area 2016-2035 provides a framework for the planning and delivery of transport infrastructure and services in the Greater Dublin Area (GDA). It also provides a transport planning policy around which other agencies involved in land use planning, environmental protection, and delivery of other infrastructure such as housing, water and power, can align their investment priorities.

The Strategy sets out the necessary transport provision, for the period up to 2035, to achieve the above objective for the region, and to deliver the objectives of existing national transport policy, including in particular the mode share target of a maximum of 45% of car-based work commuting established under in "Smarter Travel – A Sustainable Transport Future".

#### 6.3. **Section 28 Ministerial Guidelines**

The following is a list of section 28 Ministerial Guidelines considered 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').(2009)
- 'Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities' (Updated December 2020)



- Urban Development and Building Height, Guidelines for Planning Authorities, 2018.
- 'Design Manual for Urban Roads and Streets' (DMURS) (2019) / DMURS Interim Advice Note – Covid 19 (2020)
- 'The Planning System and Flood Risk Management' including the associated 'Technical Appendices'.
- 'Childcare Facilities – Guidelines for Planning Authorities'.
- Regulation of Commercial Institutional Investment in Housing – Guidelines for Planning Authorities – May 2021

#### 6.4. Local Policy Context

##### **Dun Laoghaire Rathdown County Development Plan 2016-2022**

The site is zoned 'A – To Protect and/or Improve Residential Amenity' as indicated on County Development Plan maps. Residential development is 'permitted in principle' under this zoning objective while childcare service is 'open for consideration'.

Lands along the south and adjoining the site are zoned Open space, where Objective F states "To preserve and provide for open space and ancillary active recreational amenities".

##### **Sustainable Communities**

##### **Policy RES 3 Residential Density:**

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

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.

#### Policy RES4: Existing Housing Stock and Densification:

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

- Policy RES7: Overall Housing Mix - encourage the establishment of sustainable residential communities by ensuring that a wide variety of housing and apartment types, sizes and tenures is provided within the County in accordance with the provisions of the Interim Housing Strategy.
- Policy RES14: Planning for Communities –in accordance with the aims, objectives and principles of 'Sustainable Residential Development in Urban Areas' and the accompanying 'Urban Design Manual – A Best Practice Guide'.
- Chapter 2.2 - Sustainable Travel and Transportation.
- Policy UD1: Urban Design Principles - all development is of high-quality design that assists in promoting a 'sense of place'.
- Policy UD6: Building Height Strategy- Compliance with the national guidance.
- Appendix 9 details the Building Height Strategy. Section 4.8 focuses on residual suburban areas not already included within boundaries of the cumulative areas of control. Aiken's Village is identified as being one such area. It states that a general recommended height of two storeys will apply. It further states that a maximum of 3-4 storeys may be permitted in appropriate locations - for example on prominent corner sites, on large redevelopment sites or adjacent to key public transport nodes - providing they have no detrimental effect on existing character and residential amenity. Furthermore, it states that there will be situations where a minor modification up or down in height by up to two floors could be considered and these factors are known as 'Upward or Downward Modifiers'.
- Upward Modifiers are detailed in section 4.8.1. It is stated that Upward Modifiers may apply where: the development would create urban design benefits; would provide major 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. 0.5Ha could set its own context.

- It is stated that to demonstrate to the Planning Authority that additional height is justified, it will be necessary for a development to meet more than one 'Upward Modifier' criteria.

#### Policy UD6: Building Height Strategy

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

- Section 8.2.3.2- (i) Density. The sustainable housing guidelines of 2009 are promoted and a minimum of 35 units per hectare are allowed with more than 50 required at public transport nodes.
- Section 8.2.3.3- Apartment Development
  - (ii) 70% to have dual aspect,
  - (iii) mix required at a ratio of 40/ 40/ 20 for 1/2/3 plus units.
  - (iv) 22m separation distance required.

An advisory note at the beginning of the development plan to state that the standards and specifications as set out in Section 8.2.3.3 have been superseded by the implementation of the national apartment standards and those SPPRs contained within.

#### Car parking

- Section 8.2.4.5- Parking provision in excess of the maximum standards set out for non-residential land uses in Table 8.2.4 shall only be permitted in exceptional circumstances as described below.

Reduced parking or car –free parking will be allowed in areas with high public transport accessibility.

- Table 8.2.3: Residential Land Use - Car Parking Standards
  - Apartments- 1 space per 1-bed unit/ 1.5 spaces per 2-bed unit/ 2 spaces per 3-bed unit+/ (depending on design and location).



Chapter 8 refers to Principles of Development and contains the urban design policies and principles for development including public realm design, building heights strategy, and car and cycle parking. Policy UD1 refers to Urban Design Principles. Policy UD2 requires Design Statements for all medium to large developments, and UD6 refers to Building Height Strategy.

Section 8.2.8.2 Communal open space. Requirement of 15 sq.m- 20 sq.m. of Open Space per person, based on a presumed occupancy rate of 3.5 persons in the case of dwellings with three or more bedrooms and 1.5 persons in the case of dwellings with two or fewer bedrooms. A lower quantity of open space (below 20 sq.m per person) will only be considered acceptable in instances where exceptionally high quality open space is provided on site.

#### Stepaside Area Action Plan

The non-statutory Stepside Action Area Plan was adopted by the Council in July 2000.

## **7.0 Observer Submissions**

- 7.1.1. 158 no. submissions on the application have been received from the parties as detailed above. The issues raised in the submissions are summarised below.

#### Principle/Material Contravention

- Contravenes the Development Plan in terms of height/sets a max of 6 storeys on this site/Building Height Guidelines suggests 3 to 4 storeys on these sites/in terms of Density/in terms of mix of units/in terms of separation distances
- Does not fulfil SHD criteria/ Does not qualify as SHD – development does not include houses/student accommodation
- Insufficient consultation
- Deed of Covenant does not allow units to be sold or rented separately to the remaining units/some are being rented to the Council
- SHDs are being utilised to enhance property value
- Application form has not been completed accurately

- Density exceeds standards by over 3.5 times
- Legislation around SHD is flawed
- Materially contravenes the existing development plan for the Stepside area
- Not permissible to contravene the plan without a new SEA
- Material contravention of the plan as relates to height, parking, mix and distance between buildings
- Flaws in the previous application that haven't been considered/addressed in this new application
- Density has increased since the previous refusal
- Have not addressed any of the other issues besides the Irish Water issue
- No supermarket in the area/The application should contain a supermarket/would reduce reliance on private car
- Unfinished buildings in the area
- Previous application was approved for a maximum of 6 storeys
- There is a surplus of rental property in Dublin
- Implications of the new National Development Plan/draft Development Plan
- Legislation and S28 Guidelines are out of date
- High density developments should be restricted to the inner city
- Site already has permissions for development
- Is not a residential development but is a commercial use development
- Overprovision of zoned lands in DLR
- Unfinished developments in the area
- Board needs to provide sufficient justification for allowing a density and height greater than the development plan

Design/Visual Impact/Layout/Height/Public Realm/Conservation

- Obstruction of views of the Dublin Mts/Impact on the green space/inadequate number of viewpoints.
- Proposal is on an elevated site
- Not in keeping with surrounding developments
- Will overlook gardens/will dwarf existing housing
- Impact on views including on Three Rock Mountain
- Drawings do not allow neighbouring residents to make an informed decision in relation to height
- Existing 2 storey development not shown on the plans
- Topography of the site increases the visual impact of the development/site is on the apex to the hill/there are no significant low points on the site as stated in the application
- Visually Obtrusive/Visually Overbearing
- No views from Fernleigh are provided
- An impact cannot be 'neutral'
- Site is at a higher elevation than all nearby sites with the exception of the low rise Belmont Development
- Six storey development at Parkview is set at a lower altitude

#### Surrounding Residential Amenity

- Would impact amenity and depreciate property values
- Will cause overshadowing/impact has not be adequately assessed
- Will impact on daylight and sunlight
- Impact on existing open spaces
- Increase in anti-social behaviour
- Proposed construction working hours are not acceptable/Impacts from the construction stage

- No additional amenities proposed under this application
- Submitted section drawings do not show full impact on neighbouring houses
- Access at the current Fernleigh boundary wall is unnecessary/will divide the existing green space
- No. 2 Ferncarrig Court is drawn incorrectly on the applicant's submission/it is in fact several meters closer to the development than indicated on the plan drawings
- Insufficient information to make an informed assessment
- The issue of overshadowing is not addressed
- Impact on privacy/overlooking
- Noise issues
- Balconies should include opaque glass
- Impact of the access ramp adjacent to an existing house is not acceptable
- Additional people using the Belmont Green spaces which are funded by residents
- Will block the evening sun to Ferncarrig Avenue (winter and summer)
- Proposed construction times are excessive/times are inconsistent
- Pedestrian access points through Fernleigh are unnecessary – there are now two pedestrian access points from the Aikens Village/Belmont Estates/would impact residential amenity/would divide up the green space
- CGIs do not show overshadowing
- Block F will be intrusive and overbearing/Will lead to overlooking and loss of privacy/loss of daylight, sunlight and overshadowing
- No reference to impact on Sandyford Hall Rise

#### Residential Standards/Mix/Tenure

- Insufficient space between units

#### Appropriate Assessment/Environmental Impact Assessment/Ecology



- Damage to existing trees
- Impacts on wildlife including hedgehogs, squirrels and birds nesting at this location
- No wintering bird survey undertaken/study was a desktop study only/Pond in Belarmine Park could be favoured by wintering birds/could be impacted by the construction of the storage tank
- No bat or bird survey carried out/Technical note makes no reference to the grassland/pond habitat
- Impact of the development on trees to the east
- Protected hedgehogs on the green space
- Reference 7 in the Bird and Bat Technical Note is invalid
- Many birds from the amber list present in the area including tree sparrows, house sparrows and starlings
- Bird and bat survey should be carried out
- AA may be required given the impact of the development on Natura Sites including the Wicklow Mountains SAC.
- Population of Red Grouse in the Three Rock/Two Rock mountain area (Irish Red List Protected under the Wildlife Act/Listed under Annex III/I and also under Annex II/I)/Sightings are regularly made within 2.5km of the proposed development.

#### Transport

- Fails to address concerns regarding connections and inclusivity
- Proposed number car parking spaces is wholly inadequate /overspill parking
- Entrances via the existing Belmont Estate is not satisfactory/will lead to traffic congestion/road safety concerns/existing congestion
- Traffic analysis does not include Dun Gaoithe/established residential development/does not take the almost completed Woodside development into consideration

- Luas running at capacity
- Roads are dangerous for cyclists
- Road network is inadequate/Access road to the M50 (Hillcrest Road) is inadequate
- Luas and M50 are at capacity
- Roads are being narrowed for the development of cycle lanes
- Insufficient public transport
- No drop off spaces for the crèche
- Location of car park entrance is inappropriate/should be relocated
- Impact of other permitted developments on Traffic
- No comment from TII is unacceptable
- Traffic survey data is outdated/does not account for new developments
- Impact of other developments, including BTR developments, in the area/a total of 1,269 apartments are been built and planned
- Cumulative effect of all developments on traffic must be taken into account
- Removal of the filter lanes will cause more traffic build up
- Figures in the Traffic Impact Statement are inaccurate
- Hillcrest Road is not suitable for construction traffic
- Measures in the Mobility Management Plan will not alleviate congestion
- Recent warning from the OPR in relation to negative impacts of multiple developments along the M50 and Luas Lines
- Lambe's Cross Junction has not yet been upgraded
- Report prepared by AECOM shows that this SHD goes against best practices
- Low parking rates will make this unsuitable for families, the elderly and others dependant on cars to travel
- Increased pollution from cars



- Thornberry Road was not designed to cater for the proposed level of traffic
- Provision for 10% of the Parking for EV is inadequate
- Working area of the red line boundary is inadequate/considerable works required/no consideration of this construction access in the Traffic Report
- Dispute claim that there has been no accidents/crash barriers have been installed on village road/cars have lost control on this bend/no traffic calming measures on this road/no crossing points
- No funding/contract in place for road improvements
- No parking is provided for the crèche, service vehicles and drop off area for taxis
- Widening of Thornberry Road needed to accommodate access
- TIA did not assess residents accessing this development from the Stepside Village Junction
- Traffic survey was only taken on one day/additional surveys needed/impact of pandemic on levels of traffic
- TIA fails to make reference to the 3 tonne limit on Hillcrest Road/due to existing bridge over a stream
- Lack of cycle infrastructure in the area
- Trip numbers in the TIA are inaccurate
- Fails to assess cumulative impact
- Has not modelled all relevant junctions
- Inaccuracies in the TIA trip numbers.
- Junction analysis is based on uplift in traffic movement over the 2016 permitted development – this approach is flawed/assessment should be based on today's traffic data and standards
- Heavy congestions has a significant impact on journey times
- Surrounding footpaths are insufficient

- Sandyford Rise is incorrectly referred to as Ferncarrig Avenue in the Transport Study.

#### Site Services/Flooding

- Inadequate waste water infrastructure
- Would increase flood risk
- Previous flooding issues
- Impacts of surface water run off
- Lack of information in relation to the design and maintenance of the foul water storage tank
- Drainage Issues on the walkway between Sandyford Hall and Aikens Village
- Required downstream sewer network will not be in place for another 10 to 15 years
- Design Statement fails to consider the foul water pumping station
- Noise, odour, flood safety, access for construction
- Inadequate information provided to assess impact
- Have site investigations been carried out/impact of bedrock on basement construction
- Piled foundations
- Impacts on groundwater have not been properly considered in the FRA
- Proposal is not in line with Irish Water's Code of Practice for Wastewater Infrastructure
- No assessment of impact of construction work for a tank on Grianan Fidh
- Design of the storm water sewer is inadequate/Does not comply with DLRCC storm water management policy
- Not possible to identify where the sub catchments are located on the SHD site /reference is made to sub catchment D/not on the plans

- Lack of detail in relation to the operation and maintenance of the foul storage tank
- Appendices are missing from the Drainage Design Report
- The provision of a temporary detention basin in case of pump failure will cause a health hazard
- No drawing to indicate where the proposed kiosk is to be located
- A combined hydraulic model of the surface water design has yet to be completed
- Flood Risk Assessment is inadequate
- A 3 stage FRA should be completed for this SHD/JBA are unable to determine conclusively if there is a groundwater flood risk on the site
- Existing walkway has flooded/photo of same is attached

#### Other

- Schools/Doctors are oversubscribed
- Proposal is incompatible with EU Law
- Mistakes in the documentation
- Is the Part V needed/all of the Part V is planned in a single block
- Lack of crèche facilities
- Educational Needs Assessment is inaccurate/does not take into account other developments
- Health Impacts from Dust/Residents with underlying health conditions
- Contravenes National Strategic Outcome 10 'Access to Quality Childcare, Education and Health Services'
- Impact on property values
- Rights of way issues
- Impact on wind patterns
- Lack of community and social infrastructure

- Irish Water have not yet developed the space to the front of Belmont into parkland space

## 8.0 Planning Authority Submission

- 8.1.1. Dun Laoghaire Rathdown has made a submission in accordance with the requirements of section 8(5)(a) of the Act of 2016.
- 8.1.2. Section 8 of the Planning Authority's submission sets out the planning assessment. I have summarised same below.

### Principle of Development

- Zoning – proposed uses are consistent with zoning/concerns in relation to the attenuation tanks and consistency with the F zoning objective in that it may result in an impact on the recreational value of the land
- Density – Is significantly higher than other existing residential developments in the area/could have a material impact on proposed and existing residential and visual amenity, as well as local infrastructure and services.
- Height - is two storeys above permitted scheme for the site Reg. Ref. D16A/05141/proposed location does not justify the height proposed/site sits on an elevated position/would set a precedent

### Residential Amenities

- Privacy/Overlooking - Separation distance of 22m has not been achieved in all instances to neighbouring houses/or between blocks/will lead to overlooking and loss of privacy
- Daylight/Sunlight and Overshadowing – Concern raised in relation to VSC analysis/light to windows not facing within 90 degrees of due south.
- No review of the scheme on other residential developments to the south.
- No assessment of kitchens/2% standard/of the rooms test a significant number will fail to achieve an ADF above 2%
- Minimal standards of communal/public open space areas provided

### Design, Form and Layout



- Development is considered bulky and overbearing/serious concerns in relation to the height
- Removal of Block K (since the previous refusal) has led to an improvement in layout and permeability.
- Removal of Block E recommended to increase usability, permeability and function of the public open space/offset impacts of the attenuation tanks proposed/reference is made in relation to the impact of Block E in the previous Inspector's report.
- Does not accord with Section 8.1.1.1 Policy UD1: Urban Design Principles.

#### Standard of Accommodation/Internal Standards and Mix of Units

- The 3 beds in the area are mostly dwelling houses rather than apartments/more 3 bed apartments would have been welcomed/Greater unit mix should be provided as required by Policy RES 7 of the County Development Plan

#### Quantity and Quality of Open Space

- Applying the 15-20 sq. m per person standing, the required provision of public/communal open space is 10,012 sq. m to 13,350 sq. m/development falls short of the recommended provision by 854 sq. m to 4,192 sq. m/the default minimum of 10% is met/Improvements to open spaces are sought by way of condition.
- Management and control/access issues to the attenuation area may have implications for recreation contrary to the zoning objective/condition recommended to maintain access/removal of trees to facilitate tanks is not in accordance with the letter of consent from DLRCC which requires that no trees be removed.

#### Supporting Community Infrastructure/ Childcare/Schools/Community Facilities

- Reference is made to relevant policy within the County Development Plan, as related to Supporting Community Infrastructure
- Provision of crèche is welcomed.

- Applicant's contention that increase in demand for school places can be catered for by extensions to existing school is not considered a satisfactory response.
- Input of the Department of Education may be helpful
- No reference is made to laundry facilities/work/study spaces etc as outlined in the Apartment Guidelines
- Previous applications had community rooms/sports hall – area would benefit from having a community room/sports hall

#### Refuse Storage/Waste Plan/Construction Management

- Waste Management Plan/Construction and Demolition Waste Management Plan and Construction Management Plan are inadequate – refers to Waste Sections Report (see below)

#### Drainage/Flooding

- Drainage Section are generally satisfied with the proposed attenuation system, subject to conditions/previous concerns of the first SHD in relation to attenuation storage have been addressed/Refers to Drainage Report (see below).

#### Transport Issues (see also Internal Reports)

- The site is not considered to be a 'more central' location as referenced in the Design Standards Guidelines/not adjacent to a city centre/employment location
- Transport Section do not consider the site is well served by public transport
- Lack of large shops and services in proximity to the site
- Area is suburban in nature/residents are heavily dependent on car transport/ad-hoc street parking occurs
- Proposed car parking ratio is unacceptable – will lead to inappropriate/illegal parking
- Additional cycle parking required/additional motorcycle parking required

#### Other Issues

- Taking in charge- potential overlap between DLR lands and applicant's lands needs to be examined further/public access to lands zoned F should remain

- Part V – clarity required in relation to the number of 1 and 2 bed units
- AA/EIA – potential for cumulative impacts with other existing or approved developments/site area forms part of Reg. Ref. D10A/0440 – has been part implemented/is still live

### Conclusion and Recommendation

- 8.1.3. While the Planning Authority welcomes redevelopment of the site, the previously approved schemes on the site are significantly better schemes in terms of sustainable planning and development

Recommend that permission be **refused** for the reasons below:

1. It is considered that the proposed scheme would seriously impact on existing and future residential amenities, and depreciate the values of those properties through a lack of quality open space provision significant levels of overlooking and overshadowing, and by appearing unduly prominent, overbearing and out of context, when viewed from surrounding areas; contrary to Sections 8.1.1.1 Policy UD1: Urban Design Principles, 8.1.2.3 Policy UD6: Building Heights Strategy, 8.2.3.1 Quality Residential Design and 8.2.3.3 Apartment Development of the Dun Laoghaire-Rathdown County Development Plan 2016-2022.
2. The proposed scheme fails to demonstrate that there is sufficient supporting community infrastructure to cater for the predicated future demand including childcare, schools and local community facilities contrary to Sections 7.1.3.1 Policy SIC 6 Community Facilities, 7.1.3.2 Policy SIC7: New Development Areas and Section 8.2.3.5 of the Dun Laoghaire-Rathdown County Development Plan 2016-2022.
3. The proposed development, if implemented, would result in a situation whereby D10A/0440 (as amended by subsequent amending permissions) could not be completed in accordance with condition 1 of that permission by virtue of the fact that the southernmost portion of the permitted development would be within the footprint of the proposed development. The permission under D10A/0440 has begun to be implemented. As such the option of implementing the subject proposal rather than the permitted scheme is not



available. In addition, in terms of services and open spaces, the following have yet to be delivered as part of Reg. Ref. D10/0440 – 2 no. retail units, 4 no. office units, a crèche, a sports hall and the principle open space area. In light of the foregoing the development would materially contravene a condition attached to an existing permission for development and be prejudicial to the orderly development of the area.

4. Due to the site's location, it is not considered a suitable location for the provision of a Build to Rent (BTR) apartment scheme. The site is not a 'more central' location well served by public transport or a highly accessible area such as in or adjoining city cores or at a confluence of public transport systems such as rail or bus stations located in close proximity, as referenced in Section 4.19 of the DHPLG Design Standards for New Apartments. Similarly the site is not in a location in or adjacent to (i.e. within 15 minutes walking distance of) city centres or centrally located employment locations, as referenced in Section 4.2 of the DHPLG Design Standards for New Apartments. The site is not well served by public transport, the site's proximity/accessibility/connectivity to good public transport is overestimated in the submitted application, and the site is not sufficiently located near large retail units and services that would negate the need for a car. The area is highly suburban in nature and the proposed development would have a significant negative impact on existing residents' amenity in terms of the unrealistic low provision of car spaces in an area that already suffers with traffic management issues. The proposed development would endanger public safety by reason of being a traffic hazard or obstruction to road users or otherwise.
5. The proposed mix of units, and notably the lack of larger units of 3+ bedrooms would fail to deliver an appropriate mix of housing types in accordance with Policy RES7 of the County Development Plan. It is considered that notwithstanding the profile of the existing housing stock in the area, that a scheme of this size should provide a more appropriate balance of apartment sizes.



8.1.4. Section 7 sets out suggested conditions if the Board is minded to grant permission. Those of note are as follows:

- Condition 2 – scheme shall be a maximum of 6 storeys/Block E shall be omitted from the scheme
- Condition 3 – public access to the soft landscaping above the attenuation area.
- Condition 14 – provision of a pedestrian/cyclist crossing point across Thornberry Road to/from the development at Thornberry Close and Thornberry Drive and at the east end of the development
- Condition 17/18 – provision of 5 no. car clubs spaces/minimum of 7 no. servicing/drop off/visitor/crèche parking spaces
- Condition 21 – additional cycle parking
- Condition 22 – increased width of existing cyclist/pedestrian link adjacent to the pumping station

8.1.5. Appendix A of the Planning Authority's submission includes the internal reports which are summarised below.

Drainage – No objections subject to conditions

Housing - clarity required in relation to the number of 1 and 2 bed units/require a condition requiring application to enter into an agreement in accordance with Part V.

Environment Section (Waste) – substantial hoarding will be required to limit noise nuisance in the surrounding development/conditions suggested including but not limited to the submission of a Detailed Construction Waste Management Plan and an Environmental Management Construction Plan/Revised Operational Waste Management Plan

Transport Planning – not a suitable location for BTR/not well served by public transport/lack of local shops and services/parking issues in area/Glencairn Luas stop is 950m/11 min walk/Bus services are infrequent/Proposed car parking ratio is unacceptable – will lead to inappropriate/illegal parking/Additional cycle parking required/additional motorcycle parking required/Recommend refusal/conditions suggested in the event of a grant.

Parks – Conditions suggested including but not limited to the removal of Block E in order to improve open space provision

### **Elected Members**

Section 4 of the Planning Authority's submission sets out the views of elected members as expressed at a meeting of the Dundrum Area Committee held on 26<sup>th</sup> March 2021. Concerns are raised/observation were made in relation to the following matters:

Design - height, mix, development standards/overlooking/material contravention of the 22m separation distance.

Transport – insufficient road infrastructure/insufficient parking/insufficient capacity on the Luas/existing traffic congestion/poor bus service/density is 3 times that permitted for the site/insufficient cycle infrastructure/separate cycle and pedestrian path needed/overspill parking/will lead to further congestion.

Supporting Facilities and Services – existing schools/GP at capacity/Only one playground in the area/should be public facilities on the site/no supermarkets within 3km of the site/noted that Fresh and Centra are within 3km of the site.

Other – Viability of retail questioned/does not facilitate people who want to buy houses/public safety/BTR inappropriate for the area/impact on property values/has not addressed reasons for refusal adequately/SHD process is flawed/taking in charge standard cannot be enforced.

## **9.0 Prescribed Bodies**

### Irish Water:

- Irish Water has provided a response to the applicants relating to queries raised by the Bord after the initial Pre-Consultation stage/the proposal to connect 501 units to the Irish Water network(s) could be facilitated/an online storage tank is required to mitigate the risk of flooding downstream in storm events. This storage volume of 250m<sup>3</sup> is required to mitigate the flooding risk from a 1 in 30 year return period storm event in/Further detailed modelling analysis using residential densities and misconnection allowance over the next 10-15 years will be required

to confirm the storage requirements as part of future detailed design.

Consequently, sufficient land area should be made available for potential future modular expansion of the proposed tank under future connection applications.

- When analysing a storm of 1 in 30-year return period, the system experiences surcharging and flooding outside of IW design standards. Any new development will need to address the deficiency to avoid flooding of public areas and provide the expected level of service expected to meet design IW design standards.
- The detailed design of the tank will ensure that the flow is contained within the additional volume provided to that already in the current foul system. This will contain this 1 in 30-year flood volume within the foul system until such time the network flow reverts to normal levels/intended that these works will be completed by Irish Water under an Irish Water connection agreement and the infrastructure will be owned and maintained by Irish Water following connection.
- A Statement of Design Acceptance has been issued for this development.
- Conditions recommended.

#### Inland Fisheries Ireland (IFI)

- Any discharges to surface streams near the site must not impact negatively on the salmonid status of the surface water system/Comprehensive surface water management measures must be implemented at the construction and operational stage to prevent any pollution of local surface waters.
- Essential that the receiving foul and storm water infrastructure has adequate capacity to accept predicted volumes from this development with no negative repercussions for quality of treatment, final effluent quality and the quality of receiving waters/suggest a condition to require the owner to enter into an annual maintenance contract in respect of the efficient operation of the petrol/oil interceptor and silt traps/Online monitoring and telemetry must provide failsafe and alarm-enabled mechanisms on the foul overflow tank in order to protect receiving waters with regular inspection and maintenance schedules/All discharges must be in compliance with the European Communities (Surface Water) Regulations 2009 and the European Communities (Groundwater) Regulations 2010.



## 10.0 Environmental Impact Assessment (EIA) Screening

10.1.1. Item 10(b) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended and section 172(1)(a) of the Planning and Development Act 2000, as amended provides that an Environmental Impact Assessment (EIA) is required for infrastructure projects that involve:

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

10.1.2. 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 works would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7.

10.1.3. It is proposed to construct 445 No. Built to Rent apartments residential units and a 514.9 sq. m. childcare facility on a c. 3.39 Ha site, together with all related ancillary development and services including a foul water storage tank of 500m<sup>3</sup> capacity, car parking, landscaping and site development works. The development will connect to existing mains water and sewerage services, and measures for the attenuation of run-off prior to discharge to the adjoining combined sewer are proposed.

10.1.4. 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 Statement (Screening Environmental Impact Assessment - contained within Chapter 14 of the Planning Report and Statement of Consistency) which includes the information required under Schedule 7A to the planning regulations. The nature and the size of the proposed development is below the applicable thresholds for EIA. The residential use proposed would be similar to predominant land uses in the area. The proposed development 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 development is served by municipal



drainage and water supply. The site is not subject to a nature conservation designation and does not contain habitats or species of conservation significance.

10.1.5. The various reports submitted with the application address a variety of environmental issues and assess the impact of the proposed development, in addition to cumulative impacts with regard to other permitted developments 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:

- A Housing Quality Assessment & Schedule of Accommodation, prepared by Ferreira Architects
- A Design Statement, prepared by Ferreira Architects
- A Drainage Design Report and Drawings, prepared by Kavanagh Burke Consulting Engineers
- A Landscape Report and Drawings, prepared by Mitchell & Associates Landscape Architects.
- A Site Lighting Report and Layout, prepared by SEHA Technical Services Ltd.
- A Building Lifecycle Report, prepared by the Applicant.
- An Operational Waste Management Plan, prepared by AWN Consulting.
- A Construction Environmental Management Plan, prepared by prepared by AWN Consulting.
- A Traffic & Transportation Assessment prepared by AECOM Consulting Engineers
- An Arboricultural Assessment Report, prepared by CMK Horticulture
- A Landscape & Visual Impact Assessment Report, prepared by JBA Consulting Engineers.

- A Wind Analysis and Pedestrian Comfort Report, prepared by B-fluid Dynamics Consulting Engineers
- A Sunlight, Daylight and Shadow Report prepared by Chris Shackleton Consulting.
- A Bat & Bird Technical Report, prepared by Scott Cawley Ltd

10.1.6. 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, the following assessments have been considered for the purposes of EIAR screening:

- A Sustainability Report, prepared by SEHA Technical Services Ltd, 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 Construction & Demolition Waste Management Plan, 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 121 of 1994) and to European Union (Properties of Waste which Render it Hazardous) Regulations 2015. The assessment was prepared by AWN Consulting, and sets out measures to ensure that construction and demolition phase waste will be managed and disposed in compliance with the provisions of the Waste Management Acts 1996 – 2008 and associated Regulations, and the Regional Waste Management Plan.
- A Flood Risk Assessment, prepared by JBA Consulting, has been submitted, which ensures effective management of flood risk, and which has had regard to 'The Planning System and Flood Risk Management Guidelines for Planning Authorities' (DoEHLG & OPW, 2009), and was undertaken in response to the EU Floods Directive.

- An AA Screening Report, has been submitted, prepared by Scott Cawley, in support of the Habitats Directive (92/43/EEC) and the Birds Directive (2009/147/EC) which also addresses requirements arising from the Water Framework Directive and the Urban Wastewater Treatment Directive.

10.1.7. 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

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

10.1.9. 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.

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

## **11.0 Screening for Appropriate Assessment:**

### Description of the project or plan



11.1.1. It is proposed to construct 445no. 'Build-to-Rent' apartment units (158no. 1 bedroom units and 287no. 2 bedroom units) arranged in 9 no. blocks ranging in height from 2 – 8 storeys over 2 no. independent single level basements. I refer also to the more detailed descriptions contained in Section 2 of this report. Specifically in relation to surface and foul water proposals, Section 3.1 of the submitted Screening Report sets out a detailed description of proposed measures relating to same. In relation to waste water, it is proposed to construct a below ground wastewater/stormwater storage tank and pumping station, and associated connection to wastewater networks, including an ancillary above ground kiosk. This tank will have a volume of 500m<sup>3</sup> and will be located to the south of an existing residential estate, Grianan Fidh, on improved amenity grassland habitat. This on-line storage tank is intended to accommodate stormwater during a 1 in 30 yr storm event, and capture excess stormwater volumes occurring within the foul network due to surface water misconnections to the existing foul network system, ensuring that excess water/flooding is directed into the proposed tank and away from flood locations, thus providing the required foul capacity needed to serve this and other developments, in particular during storm events and alleviating possible surcharge flooding. Foul sewers in the proposed development site will be re-directed to this tank, and from there, foul effluent is pumped from the tank to the existing sewer network to Shanganagh Wastewater Treatment Plant (WWTP) for treatment prior to discharge to Killiney Bay. The works to install the tank will be completed by Irish Water, and the infrastructure will be owned and maintained by Irish Water following connection. In terms of quantum of foul water, the proposed development will generate a foul water effluent of 1,366 P.E. (population equivalent). In relation to surface water, the surface water generated from the proposed development will discharge from the site via existing and proposed attenuation tanks to the existing storm water drainage network located along Village Road.

#### Description of the site characteristics

11.1.2. The Screening Report notes that the site is predominantly bare disturbed ground, bounded by construction hoarding and stone walls. It is stated in the Screening Report that areas of grasslands are scattered through the site, mostly in the south-eastern corner. I note from my site visit that the site is, in fact, extensively covered



with scrubland vegetation with a small number of semi-mature trees on the site. The Screening Report notes that immediately beyond the eastern boundary there is a treeline which extends along the edge of the housing development located to the east of the proposed development. No waterbodies are present on the site. The closest watercourse is the Ballyogan Stream (also referred to as the Barnacullia Stream) approx. 15 south of the location of the proposed foul water/storm water storage tank. The Screening Report notes that there is a small area of amenity grassland over the area proposed for the underground foul water/storm water storage tank to the south east of the main site.

#### Relevant prescribed bodies consulted

11.1.3. The application was referred to the following prescribed bodies.

- Irish Water
- Transport Infrastructure Ireland (no response received)
- Dun Laoghaire Rathdown County Childcare Committee (no response received)
- Commission for Regulation of Utilities (no response received)

11.1.4. Inland Fisheries Ireland have also made a submission on the application.

11.1.5. In relation to foul water proposals, I note that the submission from Irish Water sets out that a 'Statement of Design Acceptance' has been issued for this development and note that all development is to be carried out in compliance with Irish Water Standards codes and practices. The submission from Inland Fisheries Ireland states that comprehensive surface water management measures must be implemented at the construction and operational stage to prevent any pollution of local surface waters, and that it is essential that the receiving foul and storm water infrastructure has adequate capacity to accept predicted volumes from this development. In addition it is stated that online monitoring and telemetry must provide failsafe and alarm-enabled mechanisms on the foul overflow tank in order to protect receiving waters with regular inspection and maintenance schedules.

#### Planning Authority Submission

11.1.6. The Planning Authority state that the cumulative impacts of developments should be taken into account.

### Observer Submissions

- 11.1.7. Observer submission note that no dedicated bird survey was carried out. The impact of the foul/storm water storage tank on the amenity grassland area and on the wider area is highlighted as a concern. It is stated that an Appropriate Assessment and the submission of an NIS may be required for this application.

### Identification of relevant Natura 2000 sites

- 11.1.8. The site is not located within or immediately adjacent to any European Site and the nearest European site to the proposed development is the Wicklow Mountains SAC, located c. 4.9km to the south-west. Potential pathways / connections between the application site and European sites in Killiney Bay and in the vicinity of Killiney Bay are identified via wastewater discharge from Shanganagh WWTP and via potential contamination of surface waters discharging to the Barnaculla Stream (c160m south of the larger parcel of land and c15m south-west of the proposed new underground water storage tank at its closest point), which in turn discharges into Killiney Bay (via the Carrickmines Stream and the Shanganagh River).
- 11.1.9. Appendix 1 of the document sets out the European Sites in the vicinity of the proposed development site, and the Qualifying Interests (QIs) and Special Conservation Interests (SCIs) of same. These are as follows:

Site (site code)	Distance from site	Qualifying Interests
Wicklow Mountains SAC	4.9km	Oligotrophic waters containing very few minerals of sandy plains ( <i>Littorelletalia uniflorae</i> ) [3110]  Natural dystrophic lakes and ponds [3160]  Northern Atlantic wet heaths with <i>Erica tetralix</i> [4010]  European dry heaths [4030]  Alpine and Boreal heaths [4060]

		<p>Calaminarian grasslands of the <i>Violetalia calaminariae</i> [6130]</p> <p>Species-rich <i>Nardus</i> grasslands, on siliceous substrates in mountain areas (and submountain areas, in Continental Europe) [6230]</p> <p>Blanket bogs [7130]</p> <p>Siliceous scree of the montane to snow levels (<i>Androsacetalia alpinae</i> and <i>Galeopsietalia ladani</i>) [8110]</p> <p>Calcareous rocky slopes with chasmophytic vegetation [8210]</p> <p>Siliceous rocky slopes with chasmophytic vegetation [8220]</p> <p>Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles [91A0]</p> <p>Otter (<i>Lutra lutra</i>) [1355]</p>
South Dublin Bay and River Tolka Estuary SPA (004024)	c5.1km	<p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p> <p>Oystercatcher (<i>Haematopus ostralegus</i>) [A130]</p> <p>Ringed Plover (<i>Charadrius hiaticula</i>) [A137]</p> <p>Grey Plover (<i>Pluvialis squatarola</i>) [A141]</p> <p>Knot (<i>Calidris canutus</i>) [A143]</p> <p>Sanderling (<i>Calidris alba</i>) [A144]</p> <p>Dunlin (<i>Calidris alpina</i>) [A149]</p>

		<p>Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</p> <p>Redshank (<i>Tringa totanus</i>) [A162]</p> <p>Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</p> <p>Roseate Tern (<i>Sterna dougallii</i>) [A192]</p> <p>Common Tern (<i>Sterna hirundo</i>) [A193]</p> <p>Arctic Tern (<i>Sterna paradisaea</i>) [A194]</p> <p>Wetland and Waterbirds [A999]</p>
South Dublin Bay SAC (000210)	c5km	<p>Mudflats and sandflats not covered by seawater at low tide [1140].</p> <p>Annual vegetation of drift lines [1210]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Embryonic shifting dunes [2110]</p>
North Bull Island SPA (004006)	c9.1km	<p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p> <p>Shelduck (<i>Tadorna tadorna</i>) [A048]</p> <p>Teal (<i>Anas crecca</i>) [A052]</p> <p>Pintail (<i>Anas acuta</i>) [A054]</p> <p>Shoveler (<i>Anas clypeata</i>) [A056]</p>



		<p>Oystercatcher (<i>Haematopus ostralegus</i>) [A130]</p> <p>Golden Plover (<i>Pluvialis apricaria</i>) [A140]</p> <p>Grey Plover (<i>Pluvialis squatarola</i>) [A141]</p> <p>Knot (<i>Calidris canutus</i>) [A143]</p> <p>Sanderling (<i>Calidris alba</i>) [A144]</p> <p>Dunlin (<i>Calidris alpina</i>) [A149]</p> <p>Black-tailed Godwit (<i>Limosa limosa</i>) [A156]</p> <p>Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</p> <p>Curlew (<i>Numenius arquata</i>) [A160]</p> <p>Redshank (<i>Tringa totanus</i>) [A162]</p> <p>Turnstone (<i>Arenaria interpres</i>) [A169]</p> <p>Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</p> <p>Wetland and Waterbirds [A999]</p>
North Dublin Bay SAC (000206)	c10.1km	<p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Annual vegetation of drift lines [1210]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p>

		<p>Atlantic salt meadows (<i>Glaucopuccinellietalia maritima</i>) [1330]</p> <p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</p> <p>Embryonic shifting dunes [2110]</p> <p>Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120]</p> <p>Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]</p> <p>Humid dune slacks [2190]</p> <p><i>Petalophyllum ralfsii</i> (Petalwort) [1395]</p>
Glenasmole Valley SAC (001209)	c9.3km	<p>Semi-natural dry grasslands and scrubland facies on calcareous substrates (<i>Festuco-Brometalia</i>) [6210]</p> <p>Molinia meadows on calcareous, peaty or clayey-silt-laden soils (<i>Molinion caeruleae</i>) [6410]</p> <p>Petrifying springs with tufa formation (<i>Cratoneurion</i>) [7220]</p>
Wicklow Mountains SPA (004040)	c5.3km	<p>Merlin (<i>Falco columbarius</i>) [A098]</p> <p>Peregrine (<i>Falco peregrinus</i>) [A103]</p>
Rockabill to Dalkey Island SAC (003000)	c9.9km	<p>Reefs [1170]</p> <p>Harbour Porpoise (<i>Phocoena phocoena</i>) [1351]</p>

Ballyman Glen SAC (000713)	c7.3km	7220 Petrifying springs with tufa formation (Cratoneurion)*  7230 Alkaline fens
Knocksink Wood SAC (000725)	c6km	Petrifying springs with tufa formation (Cratoneurion) [7220]  Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (Alno-Padion, Alnion incanae, Salicion albae) [91E0]
Dalkey Islands SPA (004172)	c11.2km	Arctic Tern ( <i>Sterna paradisaea</i> ) [A194]  Common Tern ( <i>Sterna hirundo</i> ) [A193]  Roseate Tern ( <i>Sterna dougallii</i> ) [A192]

11.1.13. I note that Figure 1 of the report, which maps the European Sites in the vicinity of the site shows Bray Head and Howth Head, however, Appendix 1 does not include the Bray Head SAC or the Howth Head SAC although both are within the 15km boundary of the site. While I note that the 15km is a general guiding distance and that it is acknowledged that most developments (unless of a significant scale and nature) will not have an effect on the Qis of sites at that distance, I have in the interest of comprehensiveness set out details of same below

Site (site code)	Distance from site	Qualifying Interests
Bray Head SAC (00714)	11.6km	Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]  European dry heaths [4030]
Howth Head SAC (00202)	14.1km	Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]

		European dry heaths [4030]
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- 11.1.14. The Screening Report concludes that the only sites that are within the 'zone of influence' of the proposed development are those sites in or associated with Killiney Bay, due to connections via surface water drainage, and foul water discharge via the Shanganagh WWTP (Section 3.3.2 refers). Section 3.2.4 provides detail as to the hydrology and hydrological pathway, noting the 8km distance via various water courses/streams in the vicinity to Killiney Bay point of discharge at Shanganagh where the water discharges to the Southwestern Irish Sea-Killiney Bay Coastal Waterbody. The hydrological connection of key relevance is that relating to the Rockabill to Dalkey Island SAC (003000) and Dalkey Islands SPA (004172) (as noted in para 3.2.4 of the applicant's screening report). It is reasonable to assume that where the water quality and the conservation objectives of the European sites immediately proximate to Killiney Bay (ie Rockabill to Dalkey Island SAC (003000) and Dalkey Islands SPA) are unaffected by the proposed development, having regard to the source pathway model, and Conservation Objectives of those European sites at a greater distance and separated by these sites within the Irish Sea, would also be unaffected.
- 11.1.15. I concur with the conclusion that only those sites within, or in the vicinity of Killiney Bay, are within the zone of influence, having regard to the surface water and foul water pathways referred to in the Screening Report.
- 11.1.16. The report identifies a number of potential impacts associated with the proposed development, including habitat loss, habitat degradation as a result of surface water and foul water, and in combination effects.
- 11.1.17. I am generally satisfied with the assessment and conclusions contained within the applicant's screening document with respect to surface and foul water drainage. However, for clarity I propose to elaborate further in respect of the online underground storage tank. While the applicant's screening report does not explicitly refer to a potential pump failure within the storage tank I note that the likelihood of both pumps failing is low, and the likelihood that they would fail during a storm flood event would be lower again, and as such the likelihood of any consequential potential impact is therefore low. However given the location of the storage tank (and



associated detention basin) relative to the Ballyogan Stream, I have considered this issue in more detail below (Assessment of Likely Significant Effects).

11.1.18. Specifically in relation to potential hydrogeological impacts, it is noted within the Screening Report that Knocksink Wood SAC is partially located in the same groundwater body as the proposed development (the Wicklow Groundwater Body) and that this site is designated for groundwater dependant habitats. However it is set out in the report proposal does not entail significant de-watering, or operational activities which would result in an alteration to groundwater levels. The distance to same is also cited within the report (c6km). The report does not conclude that this site falls within the 'zone of influence' of the proposal, but given the highlighted groundwater connection, I am of the opinion that it does, and I have considered this issue further below (Assessment of Likely Significant Effects).

11.1.19. Specifically in relation to habitat loss and fragmentation, I note the site does not overlap with the boundary of any European Site. It is stated within the Screening Report, that the proposed site does not support populations of any fauna species links with the qualifying interest or special conservation interests of any European Site. The Screening Report does note that there is a small area of amenity grassland over the area proposed for the underground foul/storm water storage tank to the south east of the main site. I note that the proposal will result in the temporary loss of this habitat type while construction/installation of the storage tank takes place, after which the area will be restored save for the area reserved for the above ground kiosk. The special conservation interest species Light-bellied brent geese are known to use amenity grassland sites as inland feeding sites. The Screening Report indicates that this area is not suitable for this species given its very limited extent (682 sq .m) and its enclosed nature, surrounded by mature trees. It is stated that brent geese generally prefer larger, more open expanses of amenity grassland as feeding sites. There is no evidence on file that brent geese utilise this area for feeding, and observers have not submitted any evidence to support claims that this area, and the pond in Belarmine Park, could be favoured by wintering birds. I am satisfied therefore, that this area of the site, and the wider site as a whole, has no function as an *ex-situ* foraging or roosting site for qualifying species of European sites in the wider area. I am satisfied therefore that the proposed development will

not result in habitat loss or fragmentation within any European Site, or result in a loss of any *ex-situ* foraging or roosting site for qualifying species of European sites in the wider area.

11.1.20. In relation to other sites, I am satisfied that the potential for impacts on the other Natura 2000 Sites can be excluded at the preliminary stage due to the nature and scale of the proposed development, the degree of separation and the absence of ecological and hydrological pathways.

11.1.21. Those sites which I have concluded lie within the 'zone of influence' of the proposed development relevant sites are identified in the table below.

Qualifying Interest/Special Conservation Interest	Conservation Objectives	Distance	Connections / Pathway-	Considered further
<b>Rockabill to Dalkey Island SAC (003000)</b>				
Reefs Harbour Porpoise (Phocoena phocoena)	To maintain the favourable conservation condition	c9.9km east of this site	Potential impacts have been identified from surface water run-off during construction and operation and from operational wastewater discharges.	Yes
<b>Dalkey Islands SPA (004172)</b>				
Arctic Tern (Sterna paradisaea) Common Tern (Sterna hirundo) Roseate Tern (Sterna dougallii) [	To maintain the favourable conservation condition	c11.2km north-east of the site	Potential impacts have been identified from surface water run-off during construction and operation and from operational wastewater discharges.	Yes
<b>Knocksink Wood SAC (000725)</b>				

<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>Salicion albae</i>) [91E0]</p>		<p>C6km south-west of the site</p>	<p>A potential impact has been identified as Knocksink Wood is partially located in the same groundwater body as the site (the Wicklow Groundwater Body) and the site is designated in part for a groundwater dependant habitat (Petrifying springs with tufa formation).</p>	<p>Yes</p>
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## Assessment of Likely Significant Effects

### Surface Water

11.1.22. Section 3.3 of the Screening Report sets out an Assessment of Effects on European Sites. In relation to impacts from surface water run-off and discharges, and the indirect connection to same via the surface water drainage network, it is concluded that the proposed development will not have any measurable effect on water quality in Killiney Bay due to the scale and location of the development, relative to the receiving surface water network; the relatively low volume of any resultant surface water run-off or discharge events relative to the receiving surface water and marine environments; and the level of mixing, dilution and dispersion of any surface water run-off/discharges in the receiving watercourses and Killiney Bay. Therefore impacts on the conservation objectives, or special conservation interests of the European Sites in, or associated with, Killiney Bay, as a result of surface water discharges are ruled out.

11.1.23. At the construction stage, I note there is some potential for contaminated surface water run off to enter the surface water network during the construction stage given the works proposed on the main residential site, given the surface water network discharges to the Ballyogan Stream. There is also potential for the works proposed to install the foul storage tank to result in contaminated surface water run entering the Ballyogan Stream directly, given the proximity to same, although this is not explicitly considered within the Screening Report. In relation to the works proposed, I note that standard construction practices and best practice construction measures, as relates to the prevention of surface water pollution, as outlined in detail in the Construction Environmental Management Plan (CEMP) would prevent polluted surface water from entering the surface water drainage network. However, even in the absence of the above measures, I note the direct line distance from the Ballyogan Stream to the point where the Shanganagh River discharges to the Irish Sea is some 7.1km, with the indirect distance via the surface water network likely to be greater than this. Should any contaminants related to construction practices enter the surface water network during construction, I concur with the conclusions within the Screening Report that any such contaminants (i.e. such as oils, hydrocarbons, silt etc) would be sufficiently dispersed and diluted within the receiving surface watercourses and within the marine environment of Killiney Bay, such that likely

significant effects on those Natura 2000 sites within and adjacent to Killiney Bay can be ruled out.

11.1.24. In relation to surface water impacts at operational stage, I am satisfied that the proposed surface water drainage measures as outlined in the 'Drainage Design Report' and within the 'Flood Risk Assessment' will serve to limit the quantity and improve the quality of surface water runoff. These include on site-attenuation and SuDS measures to reduce the quantity of surface water discharge from the site, and to improve discharge water quality. All surface waters will pass through a hydrocarbon interceptor before discharge to the surface water network. These are not works that are designed or intended specifically to mitigate an effect on a Natura 2000 site. They constitute the standard approach for construction works in an urban area. Their implementation would be necessary for a residential development on any brownfield site in order to protect the receiving local environment and the amenities of the occupants of neighbouring land regardless of 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 an urban site whether or not they were explicitly required by the terms or conditions of a planning permission. As such, I am satisfied proposed surface water measures at operational stage will be sufficient so as not to result in any likely significant effects on any Natura 2000 site within Killiney Bay, or any other Natura 2000 sites, having regard to the sites' conservation objectives.

#### Foul Water

11.1.25. In relation to foul water impacts, the Screening Report makes reference to the Shanganagh WWTP which (as of 2019) is operating below its capacity of 186,000 P.E., with a current operational loading of c. 127,618 P.E. It is further noted that Shanganagh WWTP operates under a discharge licence from the EPA and must comply with the licence conditions. It is also noted that Killiney Bay is currently classified by the EPA as being of 'unpolluted' water quality status. Reference is made to the Greater Dublin Strategic Drainage Study, and to the DLR Development Plan, and the policies and objectives therein in relation to the protection of water quality, and in relation to the Water Framework Directive. It is concluded that given these considerations, the proposed development will not impact on the water quality status of Killiney Bay.

11.1.26. In relation to impacts from foul water at operational stage, I generally concur with the conclusions within the Screening Report as relates to foul water impacts, in particular with reference to the sufficient capacity of the Shanganagh WWTP to accommodate this development and the need for the WWTP to operate within the conditions of its licence from the EPA. In relation to the foul/storm water storage tank, this tank will be installed and maintained by Irish Water. The tank and pumping station are required to be installed in accordance with 'Code of Practice for Wastewater Infrastructure' published by Irish Water (July 2020 Revision 2). This code of practice describes in detail the requirements to be incorporated into the design of pumping stations and features for the design of pump stations include pump unit protection systems to cover potential for pump failure events, incorporation of dial out alarms/remote monitoring (telemetry) and emergency storage. The design and installation of the pumping station and foul/stormwater storage tank in line with Irish Water's Code of Practice for Wastewater Infrastructure do not constitute works that are designed or intended specifically to mitigate an effect on a Natura 2000 site. This is the only way such a pumping station and storage tank can be designed and installed and the adherence to the Code of Practice is necessary for such wastewater infrastructure works, in order to protect the receiving local environment and the amenities of the occupants of neighbouring land, regardless of connections to any Natura 2000 site or any intention to protect a Natura 2000 site.

11.1.27. I note that the proposed drawing number D18 Rev P12 indicates a localised temporary basin in case of pump failure. I have set out my concerns in relation to same, in terms of public health and residential amenity, in Sections 12.6 and 12.11 below. However, from an Appropriate Assessment perspective, I note that the likelihood of this detention basin being utilised is low. In order for the tank to fail (i.e. contain excess volume such that the use of the detention basin would be required), both of the pumps would need to fail, and the alarm and notification systems would also need to fail, or not be responded to within an appropriate timeframe, and it would need to occur during a storm event (or events) which resulted in the capacity of the tank being exceeded. Irish Water's Code of Practice sets out a scenario that in the event of a pump failure, the contents of the tank are emptied by way of a tanker. There is no reference to the use of a detention basins to accommodate excess flows within the Irish Water Code of Practice. Even if it came to pass that the detention



basin was utilised, it would be designed to accommodate the excess flow, preventing flow reaching the surface water network. Again, if this detention volume was exceeded and excess flow reached the surface water network, I note the again the direct line distance from the Ballyogan Stream to the point where the Shanganagh River discharges to the Irish Sea is some 7.1km, with the indirect distance via the surface water network likely to be greater than this. I am of the view the exceedance of the tank storage volume is not likely, and having regard to the distance any pollutants would need to travel within the surface water network, and the volume of water within the surface water and estuarine/marine environment of Killiney Bay, relative to any excess flows, I am of the views that any impacts on those Natura Sites within or adjacent to Killiney Bay would not be significant.

11.1.28. While it would have been useful for the Screening Report to explicitly refer to the design requirements under the Code of Practice, the omission of this information does not represent a material deficit in the application documentation, and I am satisfied from my own review of the specifications described in the Code of Practice that, with the incorporation of a design in accordance with those specifications, the pumping station and storage tank do not represent a significant risk to the water quality of the surrounding surface water network, and subsequently does not present a significant risk to the water quality of the estuarine/marine waters of Killiney Bay

11.1.29. As such likely significant impacts on same, as a result of pump/tank failure, can be ruled out having to the sites' conservation objectives.

#### Hydrogeological Impacts (Groundwater)

11.1.30. Potential Groundwater impacts are considered in Section 3.3.3 of the Screening Report, and it is noted that Knocksink Wood SAC and Ballyman Glen SAC are designated for groundwater dependant habitats. Ballyman Glen SAC is located within a different groundwater body to the proposed development and therefore impacts are ruled out. While Knocksink Wood SAC is partially located in the same groundwater body as the proposed development, it is noted that the proposal does not entail significant de-watering, or operational activities which would result in an alteration to groundwater levels. Reference is also made to the distance between the proposed development and the European Site (c6km). It is concluded that no significant effects are anticipated as a result of the proposed development.



11.1.31. In relation to groundwater, I concur with the conclusions in relation to same made within the Screening Report. While I note a groundwater connection to Knocksink Wood SAC, and the dependence of the qualifying habitat 'Petrifying springs with tufa formation (*Cratoneurion*)' on groundwater, the nature of the proposal does not result in an alteration of groundwater levels, and furthermore the distance to same is some 6km from the site, and any pollutants would be sufficiently dispersed and diluted if they were to reach the site.

In-Combination impacts with other proposed/existing developments

11.1.32. In relation to 'in-combination' effects on water quality from other plans and projects, reference is made within the Screening Report to the Eastern & Midland Regional Assembly, Regional Spatial & Economic Strategy 2019-2031, the DLR Development Plan, and policies and objectives therein as relates to the protection of water quality, and the protection of the environment. Within Appendix A of the Screening Report, policies and objectives of the Development Plans of adjoining Planning Authorities, as relates to relates to the protection of water quality, and the protection of the environment, are set out. It is reiterated that the proposal will not have any measurable effect on water quality in Killiney Bay. In combination effects on surface water are ruled out having regard to the policies and objectives of the plans referred to above.

11.1.33. In relation to potential in-combination impacts, I note that project is taking place within the context of greater levels of built development and associated increases in residential density in the Dublin area. This can act in a cumulative manner through increased volumes to the Shanganagh WWTP. The expansion of the city is catered for through land use planning by the various planning authorities in the Dublin area, and in this area, by the Dun Laoghaire Rathdown Development Plan 2016-2022. This has been subject to AA by the planning authority, which concluded that its implementation would not result in significant adverse effects to the integrity of any Natura 2000 areas. I note also the development is for a relatively small residential development of 445 residential units, and a crèche. The site is on serviced lands in an urban area and does not constitute a significant urban development in the context of the city. As such the proposal will not generate significant demands on the existing municipal sewers for foul water and surface water. Furthermore I note the Shanganagh WWTP plant is operating below its capacity of 186,000 P.E., with a

current operational loading of c.127,618 P.E. The proposed development will generate a foul water effluent of 1,366 P.E. (population equivalent).

11.1.34. Having regard to the considerations discussed above, I am satisfied that there are no projects or plans which can act in combination with this development that could give rise to any likely significant effect to Natura 2000 Sites within the zone of influence of the proposed development

#### AA Screening Conclusion

11.1.35. Having regard to the considerations above, it is reasonable to conclude that on the basis of the information on the file, which I considered 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 Rockabill to Dalkey Island SAC (003000) or on Dalkey Islands SPA (004172); or any European site, in view of the sites' conservation objectives, and a Stage 2 Appropriate Assessment (and submission of an NIS) is not therefore required.

## 12.0 Assessment

12.1.1. The main planning issues arising from the proposed development not already dealt with in the EIAR can be addressed under the following headings-

- Principle of Development
- Material Contravention
- Design and Layout including Density, Height and Public Realm/Visual Impact
- Residential Amenities/Residential Standards
- Surrounding Residential Amenity
- Traffic and Transportation
- Ecology/Trees
- Flood Risk
- Site Services
- Other Issues
- Planning Authority's Recommended Reasons for Refusal

## 12.2. Principle of Development

### Zoning

- 12.2.1. The entire site comprises of a larger parcel of land bounded by Atkinson Drive to the west, Thornberry Road to the north, Village Road to the south/south-west, open space and a pedestrian walkway to the south and a treelined boundary to the east, and also of a smaller parcel of land to the south of Grianan Fidh, an existing residential development. This smaller area is located within an existing area of open space under the ownership of Dun Laoghaire-Rathdown County Council. Under the Dun Laoghaire Rathdown County Council Development Plan 2016 – 2022 (the Development Plan), the majority of the larger parcel of land is subject to Zoning Objective A.– “To protect and or improve residential amenity”. A smaller portion of this land is zoned Objective F is – “To preserve and provide for open space with ancillary active recreational amenities”. Table 8.3.10 of the Development Plan, in relation to Zoning Objective F, also has a note ‘g’ which states that *inter alia* ‘where lands zoned F are to be developed then: Not more than 40% of the land in terms of the built form and surface car parking combined shall be developed upon’.
- 12.2.2. The Planning Authority have stated that proposed uses are consistent with zoning but have raised concerns in relation to the attenuation tanks and consistency with the F zoning objective in that it may result in an impact on the recreational value of the land. I have addressed this issue below.
- 12.2.3. It is proposed to provide the residential units, crèche and associated works within the area of the site zoned objective A. The proposal to provide residential units and a childcare facility is in compliance with the zoning objectives. It is proposed to provide additional footpaths and landscaping in the smaller portion zoned (Objective F – Open Space). This is compliance with the zoning objective for this area of the site.
- 12.2.4. In relation to the smaller portion of land to the south of Grianan Fidh, this is zoned Objective F is – “To preserve and provide for open space with ancillary active recreational amenities”. It is proposed to construct an online underground foul water overflow storage tank, plus above ground detention area, reinstated landscaping, and a small above ground kiosk within this area. The applicant’s Planning Statement and Statement of Consistency has set out how this element of the proposal complies with the zoning objective. Specifically in relation to the foul water tank, it is noted that



'Public Services' are 'Open for Consideration' on lands zoned Objective F. The Development Plan defines 'Public Services' as *"A building or part thereof or land used for the provision of 'Public Services'. 'Public Services' include all service installations necessarily required by electricity, gas, telephone, radio, television, water, drainage and other statutory undertakers; it includes public lavatories, public telephone boxes, bus shelters, bring centres, green waste composting facilities, etc"*

The applicants highlight that the works to construct/install the online foul storage tank will be completed by Irish Water and the infrastructure will be owned and maintained by Irish Water following connection. The tank is sized to facilitate this proposed development but also additional development in the area over the next 10-15 years. The tank can therefore be defined as a public service. While the structure is underground, the applicants also highlight that the underground footprint of the tank is 26% of the area of open space zoning as defined by the red line site boundary, and as such is less than the 40% limitation as set out in the Development Plan. The applicants also set out that the reinstatement of the lands allow for the use of the site to continue as open space, and is therefore in compliance with the overall zoning objective for the site.

- 12.2.5. Given the works are to be delivered and owned and maintained by Irish Water, a statutory undertaker, I am satisfied that the works can be defined as a public service, as per the definition within the Development Plan. Given that the lands will for the most part be reinstated as open space, save for the proposed kiosk, I am satisfied that the overall zoning objective for this portion of site will not be compromised.
- 12.2.6. In conclusion therefore I am satisfied that the proposed development is in compliance with the various zoning objectives that relates to the site.

#### Previous Permission

- 12.2.7. The Planning Authority has raised concerns in relation to the previous permission on this site (D10A/0440), as amended by subsequent permissions, and state that this has already been part implemented and therefore still live. As such the Planning Authority is of the view that the option of implementing the subject proposal rather than the permitted scheme is not available. The Planning Authority's recommended reason for refusal No. 3 relates to this issue. This issue does not appear to have been raised by the Planning Authority in relation to the previous SHD on this site nor



has it been raised at pre-application stage. Notwithstanding, I am of the view that any compliance issues are a matter for the planning authority to enforce and are not a matter for the Board to adjudicate upon in the context of this application. I am satisfied, that while the site may have once been the subject of a previous section 34 permission in respect of a larger site, that this does not *de facto* preclude the consideration of the development on its merits.

#### Build to Rent (BTR)

- 12.2.8. The proposed BTR units are described as long-term rental, to remain owned and operated by an institutional entity for a minimum period of not less than 15 years. It therefore falls within the definition of BTR provided in section 5.2 of the Apartment Guidelines, i.e. 1. "Purpose-built residential accommodation and associated amenities built specifically for long-term rental that is managed and serviced in an institutional manner by an institutional landlord."
- 12.2.9. Section 5.7 of the Guidelines notes BTR development can deliver housing units to the rental sector over a much shorter timescale than traditional housing models, making a significant contribution to the required increase in housing supply nationally, identified by Rebuilding Ireland, and the scale of increased urban housing provision envisaged by the National Planning Framework. I note the Planning Authority state that the site is not a suitable location for the provision of a Build-to-Rent apartment scheme as it is not a central location that is well served by public transport and the Planning Authority's recommended reason for refusal No. 4 relates to same. I note the site is within 900m of Glencairn Luas Stop with good pedestrian connections to same, and as such I am of the view that the site is well served by a high frequency public transport system. The proposed BTR units are therefore appropriate at this accessible urban location that is zoned for residential development.
- 12.2.10. SPPR 7 of the Guidelines provides that BTR development must be:
- (a) Described in the public notices associated with a planning application specifically as a 'Build-to-Rent' housing development that unambiguously categorises the project (or part thereof) as a long-term rental housing scheme, to be accompanied by a proposed covenant or legal agreement further to which appropriate planning conditions may be attached to any grant of permission to ensure that the

development remains as such. Such conditions include a requirement that the development remains owned and operated by an institutional entity and that this status will continue to apply for a minimum period of not less than 15 years and that similarly no individual residential units are sold or rented separately for that period;

b) Accompanied by detailed proposals for supporting communal and recreational amenities to be provided as part of the BTR development. These facilities to be categorised as:

(i) Residential support facilities – comprising of facilities related to the operation of the development for residents such as laundry facilities, concierge and management facilities, maintenance/repair services, waste management facilities, etc.

(ii) Residential Services and Amenities – comprising of facilities for communal recreational and other activities by residents including sports facilities, shared TV/lounge areas, work/study spaces, function rooms for use as private dining and kitchen facilities, etc

12.2.11. The public notices specify that the development includes BTR units, as required by SPPR 7 of the Guidelines. The BTR apartments are to be subject to a long-term covenant or legal agreement in accordance with SPPR 7.

12.2.12. As per the application documentation, Resident Services and Amenities are provided in Blocks F & G including a resident lounge, games room, cinema, gym and yoga room. The management of the development is set out in the Site Specific & Operational Management Plan Report. The BTR units are therefore considered to be generally in accordance with the requirements of SPPR 7.

12.2.13. I note the development contains a number of 'duplex' units. However the occupancy conditions contained in the recently published Section 28 Guidelines 'Regulation of Commercial Institutional Investment in Housing – Guidelines for Planning Authorities' are not applicable to developments that are specified as being for 'build-to-rent' at planning stage, such as the development proposed here.

### **12.3. Material Contravention**

12.3.1. The applicant has submitted a Material Contravention Statement which refers to a potential material contravention of the Building Height Strategy as set out in Appendix 9 of Dun Laoghaire Rathdown Development Plan 2016 – 2022. Reference

is also made to a potential material contravention of Section 8.2.3.3(iii) of the Dun Laoghaire-Rathdown County Development Plan 2016 – 2022 which refers to Dwelling Mix. Section 5 of the Material Contravention Statement sets out the 'Justification for Material Contravention Statement'. In relation to height, it is stated the project is of both strategic and national importance, that it complies with the provisions of the NPF and of the Urban Development and Building Height Guidelines, including the Criteria as set out in Section 3.2 of the Guidelines. In relation to dwelling mix, it is stated that the proposal complies with the provisions of the NPF and it provides an appropriate mix for the wider area. Reference is made to SPPR 1 of the Apartment Guidelines and it is stated that the proposal is compliant with same, notwithstanding the Build to Rent nature of the proposed development. It is further stated that there has been significant development within the Aiken Village / Belarmine area which has seen a general intensification of such areas in proximity of high frequency public transport and that the granting of permission can be justified by reference to the pattern of development, and permissions granted, in the area since the making of the development plan.

12.3.2. The Development Plan sets out policy on Building Height under Policy UD6: Building Height Strategy, which states that it is Council policy to adhere to the recommendations and guidance set out within the Building Height Strategy for the County, which is set out in Appendix 9 of the Development Plan. Appendix 9 details the Building Height Strategy. Section 4.8 focuses on residual suburban areas not already included within boundaries of the cumulative areas of control. Aiken's Village is identified as being one such area. It states that a general recommended height of two storeys will apply. It further states that a maximum of 3-4 storeys may be permitted in appropriate locations - for example on prominent corner sites, on large redevelopment sites or adjacent to key public transport nodes - providing they have no detrimental effect on existing character and residential amenity. Furthermore, it states that there will be situations where a minor modification up or down in height by up to two floors could be considered and these factors are known as 'Upward or Downward Modifiers'.

12.3.3. Upward Modifiers are detailed in section 4.8.1. It is stated that Upward Modifiers may apply where: the development would create urban design benefits; would provide major 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. 0.5Ha could set its own context.

- 12.3.4. As such, subject to the criteria above being satisfactorily addressed, a development could have a maximum height of 6 storeys and still be compliant with the Building Height Strategy. This proposed development has a maximum height of 8 storeys. As such I am of the view the proposed heights are a material contravention of the height parameters as set out in the Building Height Strategy, and is therefore a material contravention of Policy UD6: Building Height Strategy of the Development Plan.

#### Dwelling Mix/Separation Distances/Car Parking

- 12.3.5. I have considered the issues of dwelling mix and separation distances in Section 12.5 below and I have concluded therein that the proposal does not represent a material contravention of the Development Plan, having regard to standards relating to same. I have considered the issue of car parking in Section 12.7 below and I have concluded therein that the proposal does not represent a material contravention of the Development Plan, having regard to standards relating to same.

#### Separation Distance

- 12.3.6. Similar considerations apply Section 8.2.3.3(iv) 'separation between blocks', and while the proposal does not meet the 22m separation distance set out in same, I am not of the view it represents a material contravention of the Development Plan, nor is the Planning Authority of that view.
- 12.3.7. Should the Board be minded to materially contravene the Development Plan (as relates to height), the following considerations are relevant.
- 12.3.8. Section 9(6)(a) of the Planning and Development (Housing) and Residential Tenancies Act 2016 states that Subject to paragraph (b), the Board may decide to grant a permission for a proposed strategic housing development in respect of an application under section 4 even where the proposed development, or a part of it, contravenes materially the development plan or local area plan relating to the area concerned. Paragraph (c) of same states 'Where the proposed strategic housing development would materially contravene the development plan or local area plan, as the case may be, other than in relation to the zoning of the land, then the Board



may only grant permission in accordance with paragraph (a) where it considers that, if section 37(2)(b) of the Act of 2000 were to apply, it would grant permission for the proposed development'. As set out above, I am not of the view that the proposal would contravene the Development Plan, as relates to the zoning of the land.

12.3.9. The Planning and Development Act 2000 (as amended) provides that the Board is precluded from granting permission for development that is considered to be a material contravention, except in four circumstances. These circumstances, outlined in Section 37(2)(b), are as follows: (i) the proposed development is of strategic or national importance, (ii) there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned, or (iii) permission for the proposed development should be granted having regard to regional planning guidelines for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or (iv) permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.

12.3.10. I have set out my considerations of the proposal, as relates to the relevant criteria of 37(2)(b) of the Planning and Development Act, below.

In relation to the matter of strategic or national importance, (criteria 37(2)(b)(i) of the PDA 2000), the current application has been lodged under the Strategic Housing legislation and the development is strategic in nature and relates to matters of national importance (the delivery of housing). The proposal represents the regeneration of an important site within Stepside, and makes a contribution to the housing stock, of some 445 Build to Rent units, and therefore seeks to address a fundamental objective of the Housing Action Plan, and such addresses a matter of national importance, that of housing delivery.

12.3.11. Therefore, having regard to the considerations above, should the Board be minded to materially contravene the provisions of the Dun Laoghaire-Rathdown Development Plan 2016-2022, as relates to matter of height, in principle, it can do so having regard the criteria of 37(2)(b)(i).

12.3.12. In relation to National Policy, Project Ireland 2040: National Planning Framework (NPF) seeks to deliver on compact urban growth. It is set out that general restrictions on building heights should be replaced by performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth (NPO Objectives 13 and 35 refer). Also of relevance, objectives 27, 33 and 35 of the NPF seek to prioritise the provision of new homes at locations that can support sustainable development and seeks to increase densities in settlements, through a range of measures. In relation regional planning guidelines for the area and Section 28 Guidelines, the Eastern & Midland Regional Assembly – Regional Spatial & Economic Strategy 2019-2031 seeks to increase densities on appropriate sites within Dublin City and Suburbs.

12.3.13. In relation to relevant Section 28 Guidelines, given that the material contravention in this instance relates to the matter of height, those of most relevance are the Urban Development and Building Height Guidelines (2018), issued under Section 28 of the PDA 2000 (hereafter referred to as the Building Height Guidelines). Other Section 28 Guidelines of relevance include the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2018) (hereinafter referred to as the Apartment Guidelines) and Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities (2009)

12.3.14. The Building Height Guidelines state that increasing prevailing building heights therefore has a critical role to play in addressing the delivery of more compact growth in our urban areas, particularly our cities and large towns through enhancing both the scale and density of development. It is further set out that building heights must be generally increased in appropriate urban locations, subject to the specific criteria as set out in Section 3.2 of the Guidelines. In principle, given the locational characteristics of this site, which is zoned for residential development, within an area well served by public transport, increased heights on this site are supported by the Building Height Guidelines, subject to a detailed consideration of the design merits of the proposal, including a consideration of the proposal in relation to the criteria as set out in Section 3.2 of the Guidelines. I have considered the merits, or otherwise, of the design of the proposed development, within Section 12.4 of this report.

12.3.15. Other Section 28 Guidelines of relevance include the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (updated

December 2020), and the Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities (2009) which support increased densities in appropriate locations. In reference to the relationship between density and height, it is acknowledged that, while achieving higher density does not imply taller buildings alone, increased building height is a significant component in making optimal use of the capacity of sites in urban locations where transport, employment, services or retail development can achieve a requisite level of intensity for sustainability (Section 2.3 of the Building Height Guidelines refer) and as such increases in density are generally associated with increases in height. I am of the view that, in principal, an increased density on this site, and subsequently an increased height, is supported by the Section 28 Guidelines referred to above.

12.3.16. Therefore, having regard to the considerations above, should the Board be minded to materially contravene the provisions of the Dun Laoghaire-Rathdown Development Plan 2016-2022, as relates to matter of height, in principle, it can do so having regard the criteria of 37(2)(b)(iii).

12.3.17. In relation to the pattern of development/permissions granted in the area since the adoption of the Development Plan, I note the Board has granted permission for a development of 200 units with heights of up to 7 storeys at Lisieux Hall (a protected structure), Murphystown Road, Leopardstown, Dublin 18 (APB Ref 307415). This is located some 300m east of this site. The Board considered the proposal materially contravened the Development Plan in relation to height. As such there is precedent for a material contravention of the height parameters as set out in the Development Plan, and for a greater height than prevailing within the wider area (albeit for the Lisieux Hall site the height was up to seven storeys and not up to eight storeys as proposed here). However, I consider that the criteria of 37(2)(b)(iv) has been fulfilled in this instance.

12.3.18. In conclusion, should the Board be minded to invoke the material contravention procedure, as relates to matters of height, I am of the opinion that;

In principle, meets the criteria of 37(2)(b)(i), as the development is strategic in nature and relates to matters of national importance (the delivery of housing);

In principle, meets the criteria of 37(2)(b)(iii), as increased heights and densities are supported by national and regional policy, and by relevant Section 28 Guidelines.



In principle meets the criteria of 37(2)(b)(iv), as relates to permissions granted in the area, as there is precedent in the area for a material contravention of the height parameters as set out in the Development Plan.

12.3.19. In conclusion, therefore should the Board be minded to invoke the material contravention procedure, as relates to the provisions of the Dun Laoghaire-Rathdown Development Plan 2016-2022 pertaining to height, I consider that, in principle, the provisions of Section 37(2)(b)(i)(iii) and (iv) have been met, and in this regard I consider that the Board can grant permission for the proposal, should it be minded to do so.

**12.4. Design and Layout including Density, Height and Public Realm/Visual Impact**  
Density

12.4.1. The proposed density is 156 units/ha. The Planning Authority state that the density is significantly higher than other existing residential developments in the area and could have a material impact on proposed and existing residential and visual amenity, as well as local infrastructure and services.

12.4.2. Observer submissions have stated the density has increased since the previous refusal and it contravenes the Development Plan as relates to density.

12.4.3. In relation to national policy, Project Ireland 2040: National Planning Framework (NPF) seeks to deliver on compact urban growth. Of relevance, objectives 27, 33 and 35 of the NPF seek to prioritise the provision of new homes at locations that can support sustainable development and seeks to increase densities in settlements, through a range of measures.

12.4.4. In relation to regional policy, the site lies within the Dublin Metropolitan Area Strategic Plan (MASP) as defined in the Regional Spatial & Economic Strategy (RSES) 2013-2031 for the Eastern & Midland Region. A key objective of the RSES is to achieve compact growth targets of 50% of all new homes within or contiguous to the built-up area of Dublin city and suburbs. Within Dublin City and Suburbs, the RSES support the consolidation and re-intensification of infill/brownfield sites to provide high density and people intensive uses within the existing built up area and ensure that the development of future development areas is co-ordinated with the delivery of key water and public transport infrastructure.



- 12.4.5. In relation to Section 28 Guidelines, I note the provisions of the Apartment Guidelines which state, with respect to location, that apartments are most appropriately located within urban areas. As with housing generally, the scale and extent of apartment development should increase in relation to proximity to core urban centres and other relevant factors. Existing public transport nodes or locations where high frequency public transport can be provided, that are close to locations of employment and a range of urban amenities including parks/waterfronts, shopping and other services, are also particularly suited to apartments.
- 12.4.6. My view is that the site lies within the category of a Central and/or Accessible Urban Location as defined within the Apartment Guidelines (2018), given the site is located approximately 900m walking distance from the Glencairn Luas Stop. The Guidelines note that these locations are generally suitable for small- to large-scale (will vary subject to location) and higher density development (will also vary), that may wholly comprise apartments.
- 12.4.7. In principle therefore a relatively high density such as that proposed here is supported by the Apartment Guidelines.
- 12.4.8. In relation to the criteria as set out in the Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities (2009), the site could be considered under the category of a 'Public Transport Corridor' as it is within 1km of a light rail stop or a rail station. The capacity of public transport (e.g. the number of train services during peak hours) should also be taken into consideration in considering appropriate densities. In general, minimum net densities of 50 dwellings per hectare, subject to appropriate design and amenity standards, should be applied within public transport corridors, with the highest densities being located at rail stations / bus stops, and decreasing with distance away from such nodes. Given the site is approximately 900m from the nearest Luas Stop, which is a high frequency transport service, the density is also supported, in principle, by these guidelines.
- 12.4.9. In relation to Dun Laoghaire Rathdown County Development Plan 2016-2022, Policy RES 3 Residential Density is of relevance:

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

*residential development. In promoting more compact, good quality, higher density forms of residential development ...*

*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.*

As is Policy RES4: Existing Housing Stock and Densification:

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

12.4.10. Section 8.2.3.2 (ii) of the Development Plan refers to residential density, and states *inter alia* that 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) (see discussion of same above).

12.4.11. In conclusion therefore, a higher density, such as that proposed here, is supported by National and Regional Policy, Relevant Section 28 Guidelines and, in principle, is supported by the Development Plan, subject to the proposal meeting certain criteria including the need to provide high quality development and the protection of surrounding residential amenity

#### Height

12.4.12. The proposed heights are as follows.

- Block AB – 3, 4 and 5 storeys (above ground/car park level); Block C – 2, 6, 7 and 8 storeys (above ground/car park level); Block D – 6 and 7 storeys (above ground/car park level); Block E – 4 storeys (above ground/car park level); Block FG – 4, 5 and 6 storeys (above ground/car park level); Block H – 6 and 7 storeys (above ground/car park level); Block J – 6 storeys (above ground/car park level)

12.4.13. The Planning Authority have objected to the height and stated that the proposed location does not justify the height proposed. It is noted that the site sits on an elevated position and would set a precedent. The Planning Authority's

Recommended Reason for Refusal No. 1 refers to impact on amenity, having regard to *inter alia* the prominence and overbearing nature of the proposal.

- 12.4.14. The vast majority of observer submissions raise concerns in relation to the height and state that the proposal is not in keeping with surrounding developments and it will be visually obtrusive and visually overbearing. It is stated that higher buildings in the area (of up to six storeys) are located on sites with a lower elevation (i.e. at Parkview). It is stated that insufficient views have been provided with the application and in general insufficient detail, including relevant context elevations and sections, has not been provided with the application, in order to allow an informed assessment.
- 12.4.15. In relation to national policy on heights, the National Planning Frameworks supports increases in densities generally, facilitated in part by increased building heights. It is set out that general restrictions on building heights should be replaced by performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth (NPO Objectives 13 and 35 refer). The principle of increased height, such as that set out here, is supported by the NPF therefore, subject to compliance with the relevant performance criteria.
- 12.4.16. In relation to Section 28 Guidelines, the most relevant to the issue of building heights, is the Building Height Guidelines (2018). Within this document it is set out that that increasing prevailing building heights has a critical role to play in addressing the delivery of more compact growth in our urban areas. (Section 1.21 refers). In reference to the relationship between density and height, it is acknowledged that, while achieving higher density does not imply taller buildings alone, increased building height is a significant component in making optimal use of the capacity of sites in urban locations where transport, employment, services or retail development can achieve a requisite level of intensity for sustainability (Section 2.3 refers). It is further stated that such increased in density and height help to optimise the effectiveness of past and future investment in public transport serves including rail, Metrolink, LUAS, Bus Connects and walking and cycling networks (Section 2.4 refers). The Height Guidelines also note that, Planning Authorities have sometimes set generic maximum height limits across their functional areas. It is noted that such limits, if inflexible or unreasonably applied, can undermine wider national policy objectives to provide more compact forms of urban development as outlined in the



National Planning Framework. It is also noted that such limitations can hinder innovation in urban design and architecture leading to poor planning outcomes.

12.4.17. SPPR 3 of the Height Guidelines states that where a planning authority is satisfied that a development complies with the criteria under section 3.2 of the guidelines, then a development may be approved, even where specific objectives of the relevant development plan or local area plan may indicate otherwise (I refer the Board to Section 12.3 'Material Contravention' for further consideration of this issue as it relates to the Development Plan). In this instance the Building Height Strategy of the Development Plan set a notional limit of 6 storeys on this site. As such the criteria under section 3.2 of the Building Height Guidelines, provide a relevant framework within which to assess the merits, or otherwise, of this proposed development.

12.4.18. Section 3.2 sets out detailed development management criteria, which incorporate a hierarchy of scales, (at the scale of the relevant city/town, at the scale of the district/neighbourhood/street; at the scale of the site/building, with reference also made to specific assessments required to be submitted with application for taller buildings. In relation to same I note the following.

#### City Scale

*The site is well served by public transport with high capacity, frequent service and good links to other modes of public transport.*

12.4.19. The first criterion relates to the accessibility of the site by public transport. I have set out an assessment of same above, and I note that the site is relatively well served by public transport, namely by the Luas but does not have a high frequency bus service. However, it falls within the 1km corridor of a high frequency service and as such I would consider there is some scope for increased height over and above the limitations as set out in the Building Height Strategy. I consider that the site complies with the above criteria. Observers submissions have stated that there are capacity issues at peak hours on the Luas line and the bus route is not efficient. I concur that the bus routes are not of particularly high frequency. However, the Luas is an existing high capacity, high frequency, mode of transport proximate to the site capable of accommodating large numbers of people, more than can be accommodated in a private car. This area offers choice of modes of transport for peak hour movements, including luas, bus, cycle paths, pedestrian paths, and car.

There are plans to continually upgrade and improve all such modes of transport. Peak hour pressures on public transport are common and to be expected in urban areas and to my mind do not constitute a reason for refusal. Transport Infrastructure Ireland (TII) have been consulted on this application and has not submitted an objection to this proposal on the basis of lack of public transport capacity nor has it raised this as an issue in terms of prematurity of development pending any further upgrades or increase to services. I am satisfied that the transport network in place (rail, bus, road, bicycle, and pedestrian) can cater for the increase in population anticipated by this development.

*Development proposals incorporating increased building height, including proposals within architecturally sensitive areas, should successfully integrate into/ enhance the character and public realm of the area, having regard to topography, its cultural context, setting of key landmarks, protection of key views. Such development proposals shall undertake a landscape and visual assessment, by a suitably qualified practitioner such as a chartered landscape architect.*

12.4.20. A Landscape and Visual Impact Assessment has been submitted and I am satisfied the report has been prepared by a suitably qualified practitioner. The application is also accompanied by a Photomontage Document, which the Landscape and Visual Impact Assessment makes reference to. Section 7 of the Landscape and Visual Impact Assessment sets out the predicted impacts of the proposed development and it is stated that the six storey Blocks D & H will have a moderately negative visual impact on the northern blocks of Grianan Fidh. Block C (8 storeys above ground) will create a potentially negative visual impact, particularly at construction stage, where it will be visible from the wider Aiken's Village and Belarmine. Reference is made to tree planting on the southern boundary which will provide screening. Section 7.3 refers to the 13 no. viewpoints included in the Photomontage Document and slight to moderate negative short term visual impacts are predicted for the majority of viewpoints at construction stage. No negative visual impacts are expected at operational stage. The predicted impacts are somewhat contradictory in the report (i.e. those predicted impacts reported initially in comparison with those reported when referencing the 13 no. viewpoints), and this is somewhat unsatisfactory. However, I am of the view that no negative visual impacts will arise from the development for the reasons set out below.

12.4.21. The site itself is a brownfield site, earmarked for redevelopment, and does not contribute in a positive manner to the character of the area. The site is elevated relative to sites to the south with a frontage onto the Village Road. In terms of the nature of surrounding development, it is bounded to the north by a recently completed two and three storey housing development. To the east, beyond the area of amenity space associated with the Ferncarriag Housing Development, the predominant housing typology is that of 2 story suburban housing. To the south of the site is the Grianan Fidh housing development, which is a mix of two storey own door housing and apartment blocks of up to four storeys in height. To the south-west is Cluain Shee, which is an apartment development, predominantly 3 storey in height, with large projecting dormer elements at roof level. There are four storey elements within this development. To the west, beyond the elevated area of open space, is the Belomont Housing Development, which consist of 2 and 3 storey dwelling units.

12.4.22. I am of the view that the proposal has responded well to its context. The height strategy pursued is one that pays sufficient heed to the surrounding developments. The heights drop to three and four storeys (above ground/car park level) to the north-east of the site, which is cognisant the prevailing heights of the development to the immediate north. The apparent height of the proposal will two and three storeys, given the proposed ground level will be at a lower elevation than Thornberry Road. The heights generally increase as one moves south across the site. On the eastern boundary, the heights rise from 4 to 5 to 6 storeys (above ground/car park level). I note that there is a considerable setback from the proposed 6 storey elements to the 2 storey dwelling houses at Ferncarriag (c40m), reducing any visual impact from same. Observers have noted that the plans do not show the existing 2 storey side extension at No. 2 Ferncarriag Avenue, and that the separation distance of 42.2m shown on the plans is therefore reduced. I am of the view that this reduction in separation distance is not material and is of the order of 2m. I do not consider that this has a material impact on how the proposed development would impact on this property (see also discussion on surrounding residential amenity below). I note also the screening provided by the existing tree line on the eastern boundary which provides substantial screening, although I acknowledge that this is reduced during the winter months. On the western boundary, the blocks step up from 5 storeys at



the north-west corner to 8 storeys at the south-west corner (above ground/car parking level). I note that the proposed ground level of the site sits slightly lower than Thornberry Road, reducing the apparent height of the development when viewed from Thornberry Road and Atkinson Drive. To the southern boundary, the proposed heights are 2, 6, 7 and 8 storeys above ground, with the 8 storey element located on the corner of Village Road and Atkinson Road. These increase heights are reflective of the relatively higher existing prevailing heights in the wider area, to the south and south-east, where there are developments of up to 6 storeys in height. I refer the Board to the Section 4 of the Design Statement which illustrates the existing heights of surrounding development, and how the proposal has responded to same. While I note that the site has a higher elevation than the majority of surrounding sites, I am also cognisant of the curved nature of Village Road, which tends to limit long views towards the site, therefore limiting views towards the higher elements of the proposal. The existing street trees, too, provide a significant level of screening. While the 8 storey element will be most visible from the Cluain Shee development to the south-west of the site, this is set back some 42.3m from the nearest residential unit at Cluain Shee and I am not of the view that it will be overbearing in nature. The 8 storey element is limited to a small portion of the site, with lower heights prevailing on the remainder of the site. In relation to the development to the south of the site, at Grianan Fidh, there are 3 and 4 storey apartment units facing towards the site. There is a substantial setback of at least 51m from the proposed development to same, separated by an area of open space, and I am not of the view that the proposal would be visually overbearing when viewed from same or from surrounding viewpoints. In relation to the residential development to the west of the site, there is an elevated area of open space between this existing development and the proposed development which will limit the visual impact of the proposed development when viewed from these existing properties.

12.4.23. I do not concur with the views of observers that an insufficient number of viewpoints have been provided within the Photomontage Documents and I am satisfied that the viewpoints that have been provided allow for an assessment of the visual impact of the proposed development.

12.4.24. In relation to impacts on architecturally sensitive areas, on key landmarks and on key views, I note the Planning Authority have not raised concerns in relation to impacts

on any specific ACA, Conservation Area or an Protected Structures. Observers have raised impacts in relation to the impact on existing views across the site towards the Dublin Mountains. These views are not protected with the Development Plan.

Furthermore I note that the site is a vacant brownfield site with no existing structures on the site, allowing extensive views over the site. However any development of scale, including the permitted development which has structures up to 6 storeys in height, would impact on these existing views.

12.4.25. Observers have also cited the elevation of the site, and state the site is on a higher elevation than surrounding areas, increasing the visual prominence of the proposed development. As noted above the site does sit at a higher elevation than surrounding sites, although is not located on the brow of the hill, which is located further to the west along Village Road. However I am of the view that other factors, such as the curvature of Village Road, the existing screening provided by street trees and the limited extent of the 8 storey element, all allow for heights such as that proposed here. The topography of the site itself slopes from north to south, and the higher elements including the 8 storey element, are located on the lower elements of the site.

12.4.26. A further criteria set out in Section 3.2 of the Guidelines is the contribution of tall buildings to place-making and the introduction of new streets and public spaces. The proposal introduces a new area of public open space with associated pedestrian walkways running north-south through the site. The Planning Authority is of the view that Block E should be omitted from the scheme, as it is contended that this block compromises connections between the proposed and existing open space. I note that the previous SHD on this site (Ref 306471-20) was refused permission for 2 no. reasons, one of which related to the lack of permeability through the site, with reference being made to two blocks in particular that were described as presenting an unnecessary physical and visual barrier. Block K (previously located to the north of the site) has now been omitted from the proposal. Block E (located to the south of the site) has not been omitted but has been reduced in width, reducing its footprint. I am of the view that the revised proposal provides sufficient connections to the existing area of public open space to the south of the site and that the visual impact of Block E is limited, given its limited height of 4 storeys and its reduced footprint relative to the previous proposal. I am of the view that the omission of Block E is

unnecessary, therefore. In terms of creation of streets, the proposal also introduces a defined street edge to Thornberry Road and Atkinson Drive, as well as to the south-west of the site along Village Road.

12.4.27. In relation to the materials proposed, the design statement sets out the approach to same. Brick of varying colours is the primary material, with stone cladding for some elements of the scheme, including the corner element of Block C and at the base of some of the blocks. Metal cladding is used on the upper floors and is utilised as a vertical strip in order to break down the massing of the blocks. I have no objection to the materials proposed, and I consider that there are of sufficient quality.

12.4.28. Criteria 3.2 sets out that, at the neighbourhood scale, proposals such as these are expected to contribute positively to the mix of use and building dwelling typologies. In terms of the mix of residential units provided, the proposal provides of a mix of 1 (158 no), 2 (287 no) bed apartments units that positively contributes towards the dwelling mix for the area, and is in line with SPPR 8 of the Apartment Guidelines, as relates to BTR developments.

12.4.29. At the scale of the site/building, it is expected that the form, massing and height of the proposed development should be carefully modulated so as to maximise access to natural daylight, ventilation and view and minimise overshadowing and loss of light. Where a proposal may not be able to fully meet all the requirements of the daylight provisions above, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out.

12.4.30. I have set out my assessment of the internal amenity of the proposed units, as results to daylight and sunlight in Section 12.5 below, and I am satisfied that, on balance a sufficient standard of daylight and sunlight would be provided to the units, and where targets for daylight and sunlight have not been achieved, sufficient alternative compensatory measures have been set out. I have considered the issue of overshadowing of proposed amenity spaces in Section 12.5 below. I have considered the issues of surrounding residential amenity, in relation to overshadowing, daylight and sunlight in Section 12.6 below, and I am satisfied that there will be no significant adverse impact on surrounding residential amenity, as relates to daylight, sunlight and overshadowing impacts.



12.4.31. In relation to specific assessments, the Guidelines require that such assessments may be required, and refer to an assessment of the micro-climatic effects of the proposed development. In relation to same, the applicants have submitted a wind study which addresses this requirement (see discussion of same in Section 12.5 below). In locations in proximity to sensitive bird and / or bat areas, proposed developments need to consider the potential interaction of the building location, building materials and artificial lighting to impact flight -lines and /or collision. There is no evidence that the location is particularly sensitive location having regards to the potential for bird or bat flight lines and collision (see also Section 11 above and Section 12.8 below) The applicants have submitted a telecommunications assessment and I have considered the impacts on telecommunications in Section 12.13 below.

12.4.32. While I have considered the proposal within the framework of the Building Height Guidelines, proposals which are of increased densities are also expected to comply with the 12 no. criteria in the Urban Design Manual that accompanies the Sustainable Residential Development in Urban Areas (2009), In relation to same, and as discussed in detail above, I am of the opinion that the proposal responds well to its context. Connections and permeability are discussed above and the proposal complies with this criteria. Inclusivity is considered in the design, including the provision of a range of apartment types providing for different households. A variety of active spaces are provided including the courtyard communal spaces, the public open space, the play areas and the internal amenity spaces. The proposal makes efficient use of land, as discussed above. The proposal provides a high quality environment and I am generally satisfied in relation to the layout and the public realm provision. The proposal meets and exceed apartment standards and provides for a mix of users and I am satisfied in relation to the level of daylight provided to the units and in relation to the overall standard of accommodation for end users (see relevant discussion below). In terms of the parking proposed, I have considered this issue in Section 12.7 below and I have considered the issue of detailed design above, within this section of the report, and I have concluded that the proposals achieve an appropriate form of development for the site.

## 12.5. Residential Amenities/Residential Standards

- 12.5.1. The submission from the Planning Authority raises concerns in relation to the daylight, sunlight and overshadowing assessment and, in relation to daylight, notes that there has been no assessment of kitchens. It is further stated that a significant number of the kitchen, living, dining areas will fail to achieve the 2% standard. It is further stated that only the minimal standards of communal and public open spaces have been provided, with a shortfall in the required provision of communal/public open space, although the default minimum of 10% is met. While the removal of Block K (since the previous refusal) is welcomed, it is recommended that Block E is also removed to improve the usability, permeability and function of the public open space. The impact of the proposed underground storage tank on the existing open space is also raised as a concern. In relation to the mix, the Planning Authority consider that more 3 bed apartment units should be provided, as per Policy Res 7 of the County Development Plan.
- 12.5.2. Observer submissions have stated that there is insufficient space between the apartment blocks and is contrary to the standards as set out in the Development Plan.

#### Daylight, Sunlight and Overshadowing

- 12.5.3. The applicants have submitted a Sunlight, Daylight & Overshadow Assessment (Impact Neighbours and Development Performance). This considers *inter alia* the daylight and sunlight amenity within the dwellings of the proposed development as well as the sunlight availability for the outdoor amenity spaces.
- 12.5.4. The report is based on the following standards:
- Building Research Establishment (BRE) Report 209 "Site Layout Planning for Daylight and Sunlight – a guide to good practice, 2nd Edition, 2011" ("the BRE guide")
  - BS8206 – Part 2: 2008 Code of Practice for Daylighting
- 12.5.5. While I note and acknowledge the publication of the updated British Standard (BS EN 17037:2018 'Daylight in buildings'), which replaced the 2008 BS in May 2019 (in the UK), I am satisfied that this document / updated guidance does not have a material bearing on the outcome of the assessment and that the relevant guidance

standards remain those referenced in the Urban Development & Building Heights Guidelines i.e. those referred to above.

- 12.5.6. Section 1.6 of the BRE 209 Guidelines states that the advice given within the document is not mandatory and the aim of the guidelines is to help, rather than constrain the designer. 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).

#### Daylight

- 12.5.7. In relation to daylight, the BRE 209 guidance, with reference to BS8206 – Part 2, sets out minimum values for ADF that designers/developers should strive to achieve, with various rooms of a proposed residential unit, 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-daylit living room. This BRE 209 guidance does not give any advice on the targets to be achieved within a combined kitchen/living/dining layout. However, Section 5.6 of the BS8206 – Part 2: 2008 Code of Practice for Daylighting states that, where one room serves more than one purpose, the minimum average daylight factor should be that for the room type with the highest value. For example, in a space which combines a living room and a kitchen the minimum average daylight factor should be 2%.
- 12.5.8. The submitted Sunlight, Daylight & Overshadow Assessment report notes that for apartment developments the majority of councils in Ireland and the UK accept the lower value of 1.5% assigned to living rooms to also include those with a small food preparation area (kitchen) as part of this space (ie K/L/D spaces). The higher kitchen figure of 2.0% is more appropriate to a traditional house layout and room usage. The use of a reduced/lower value accepted by Local Authorities is still compliant within the terms of the guidelines. The report states that this has been confirmed as acceptable and standard practice by the author Dr Paul Littlefair, although there is no additional information supporting this statement. The report utilises minimum values



of 1% for bedrooms and 1.5% for the living/kitchen/dining areas. I am satisfied that the alternative value of 1.5% for the living/kitchen/dining areas is appropriate, although I note that the designer has endeavoured to achieve greater values where possible, while measuring success/compliance with the alternative set ADF in terms of compliance with 1.5% for L/K/Ds. I note the accessible urban location of the development, that supports higher density and apartment development, and therefore accept that traditional housing typologies that would provide a 2% ADF for L/K/Ds is not appropriate. I am satisfied that the quality of the spaces, aspect, and amenity spaces (including balconies etc) also ensure the quality of residential amenity to compensate for any potential reduction in residential amenity as a result of the use of the lower ADF. I also note that the units are BTR.

12.5.9. The report summarises that 97% of all habitable rooms are complaint with Average Daylight Factor (ADF) based on their usage, across all of the blocks (AB, C, D, E, FG, H, J). The average ADF of all living rooms is 2.7% and bedrooms 2.5%.

12.5.10. The proposed units contain combined kitchen/living/dining layouts, and no completely internal kitchens are proposed. The report sets a target of 1.5% for the living/kitchen/dining area, in lieu of a target of 2%, as per above.

12.5.11. I note the PAs concerns regarding the use of 1.5% as opposed to 2% ADF. I have reviewed the ADF figures provided by the applicant and note that the use of the higher ADF has an impact on the overall compliance rate. I have set out the overall compliance rate, applying the 1.5% target and 2% target to the Living Kitchen Dining (LKD) areas below for the Board's information:

Block	No. of rooms passing (applying 1.5% to LKD)	Compliance Rate	No. of rooms passing (applying 2% to LKD)	Compliance Rate
Block AB	269	95%	239	84%
Block C	133	98%	128	94.1%
Block D	145	97%	137	91.3%
Block E	38	100%	38	100%

Block FG	259	97%	241	90.2%
Block H	161	98%	154	93%
Block J	138	100%	137	99.2%
<b>Total No/Average %</b>	<b>1143</b>	<b>97%</b>	<b>1080</b>	<b>93.1%</b>

12.5.12. Utilising the 2% target for LKDs reduces the overall compliance rate across all of the blocks from 97% to 93.1%. Where the target of 2% for LKD has not been achieved, in the vast majority of cases (97% as per above), the shortfall is not substantial (ADF values are above 1.5%). This, to my mind, indicates that the kitchen area of the LKD will be served by a well-lit living room, in line with the BRE Guidance. While not a specific target *per se* within the guidelines, the average ADF achieved for the LKD areas is 2.7%, indicating the majority of LKDs achieve an ADF value well above the 2% target. Where an LKD falls below 1.5%, the ADF values in all of these rooms are above 1%, save for Room 45 in Block FG where the ADF is 0.9%. However overall, I am satisfied that the levels of daylight achieved to the proposed units will, on balance be acceptable, having particular regard to the need to develop sites such as these at a sufficient density and to the non-mandatory nature of the BRE targets.

#### Sunlight

12.5.13. The report also considers internal sunlight levels to the proposed living rooms, and a summary of results is set out in the report. This assesses all living rooms within the proposed units which have a main window facing within 90 degrees of due south. Section 3.1.10 of the BRE 209 Guidance sets out that for interiors where the occupants expect sunlight, these should receive at least one quarter (25%) of annual probable sunlight hours (APSH) including in the winter months between 21 September and 21 March at least 5% of APSH. The results set out that of the living rooms analysed, 84% meet BRE standards for Annual APSH. 91% of living rooms (91%) meet the target for Winter WPSH.

12.5.14. In relation to the results for daylight (ADF), and for sunlight (APSH/WPSH), 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.

- 12.5.15. 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.
- 12.5.16. As noted, the report submitted indicates that there are some shortfalls in daylight provision, on the lower floors in particular. The extent of these shortfalls are evident within the Daylight and Sunlight report. While the report does not apply a target of 2% for LKDs (a target of 1.5% is applied), justification is set out for this. However, even when the target of 2% is applied, the overall compliance rate remains high. BRE recommendations are that kitchens are attached to well day-lit living areas, and for the vast majority of units here, this is the case. I acknowledge that, 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.
- 12.5.17. 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 amenity spaces, over and above the minimum requirement (see below), which will achieve good levels of sunlight. The majority of the units are dual aspect (52%). Each of the units has either a ground floor terrace or a balcony space that meets or exceeds the minimum requirements. Internal residential amenity spaces totalling 537 sq. m in area have also been provided within Block G, including, but not limited to, a gym, yoga studio and co-working spaces. The provision of the public open space 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.

12.5.18. Having regard to above, on balance, I consider the overall the 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, including providing much needed housing on land zoned for that purpose, and the regeneration of a brownfield site. 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.

#### Communal Open Space/Public Open Space

12.5.19. The BRE Guidelines recommend that for a garden or amenity area to appear adequately sunlit throughout the year, at least 50% of the area should receive at least two hours of sunlight on March 21st. The Sunlight, Daylight & Overshadow Assessment sets out that all of the proposed public and communal amenity areas (the 2 no. shared amenity spaces and the central public open space and achieve or exceed BRE Targets). 91.4% of the central area of public open spaces receives 2hrs of sunlight on the 21<sup>st</sup> March. 89.8% of the courtyard area between Blocks ABCD receives 2hrs of sunlight on the 21<sup>st</sup> March and 86.3% of the courtyard area between Blocks FGHIJ receives 2hrs of sunlight on the 21<sup>st</sup> March. 94% of the private balconies comply with BRE Requirements. Where balconies do not comply these are located with on a mainly northern elevation. I am satisfied the number of such north facing balconies is not excessive, and I note that the BRE guidelines note it is not always possible for all living space and amenity space to face the sun.

12.5.20. In terms of the quantum of open space provided, the proposal provides for a total of 4,930 sq. m. of public open space, equating to 17.4% of the site area.

12.5.21. Having regard to the standards set out in Appendix 1 of the Design Standards for New Apartments (updated December 2020), the overall communal space provision required is 2799 sq. m. The proposal provides for a total of 4,579 sq. m. of communal open space over the two courtyard areas. This is 16.1% of the site area.

12.5.22. I note that Section 8.2.2 of the Development Plan sets out a requirement for public/communal open space of 15 sq. m to 20 sq. m. per person, with a default minimum of 10% of the overall site area. Setting the 15 sq. to 20 sq. m standard, the communal/public open space required would be between 10,012 sq. m to 13,350 sq. m. The public open space provided as part of this application is 4,930sq. m (17.4% of the site area). As such the total communal/public open space provided is 9,509 sq. m, which is slightly below the 10,012 sq. m referred to above (applying the 15 sq. m standard). However this shortfall is not material in my view, and in any event, a provision well above the minimum default of 10% of the site area has been provided (33.5%). In conclusion, the quantum of the communal open space is in line with the requirements of the Design Standards for New Apartments (updated December 2020) and the quantum of communal/public open space provided is well in excess of the minimum of 10% of the site area as required by Section 8.2.2 of the Development Plan. I am satisfied also with the overall quality of communal and public open space provided (see also Section 12.4 above).

#### Separation Distances

12.5.23. The previous SHD application on this site was refused for 2 no. reasons, the second of which also referred to the sub-optimal separation distances between some blocks, although reference is made to the impact on same on the provision of sunlight to living spaces, rather than impacts resulting from overlooking. I have considered internal daylighting to the proposed units above, and there is a high compliance rate when assessed against BRE 209 standards. Notwithstanding, the applicants have sought to address the previous concerns in relation to separation distances between blocks, and the separation distances between the northern and southern blocks have been increased.

12.5.24. The Planning Authority is not of the view that the proposed separation distance is a material contravention of their Development Plan, although, as per above, observers have contended that it is. The Planning Authority have raised concerns in relation to the separation distance between blocks however, and note that while the distances have marginally increased, these increases are not significant.

12.5.25. Section 8.2.3.3(iv) of the Development Plan states that 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 and in taller blocks, a greater separation distance may be prescribed having regard to the layout, size and design. It is further set out that, in certain instances, depending on orientation and location in built-up areas, reduced separation distances may be acceptable

In this instance I note that that in a number of instances the separation distance between blocks is below 22m, as follows

- Block B to Block C – minimum separation of 13.26m
- Block A to Block D – minimum separation of 15.24m
- Block G to Block H – minimum separation distance of 13.4m
- Block F to Block J – minimum separation distance of 16.1m
- Block D to Block E – minimum separation distance of 18.79m
- Block E to Block H – minimum separation distance of 15.1m
- Block H to Block J – minimum separation distance of 11.89m

12.5.26. Section 8.2.3.3(iv) of the Development Plan allows for a reduced separation distance depending on orientation and location in built up areas. In relation to orientation, the proposed blocks are generally laid out in a north-south orientation, which maximises the level of daylight and sunlight to the proposed units and to the proposed open spaces within the development. As a result of this arrangement, the southern elevations of Blocks B, A, G and F have separation distances of less than 22m from the northern elevations of Blocks C, D, H and J. This results in opposing bedroom windows of a minimum 15m distance from each other. However these are limited in number. Secondary living room windows, where opposing another, are located at least 13m from each other and are generally further, and are obscured glazed. Again this are limited in number, I am not of the view that any material overlooking will occur between the blocks, having regard to the separation distances achieved between bedroom windows, and having regard to the obscured secondary living room windows. I am also satisfied in relation to the levels of daylight and sunlight achieved to the units. As such I am of the view that the applicant has addressed the previous concerns of the Board satisfactorily. In relation to the flexibility afforded by the Development Plan, I have discussed the matter of orientation above, and I am of the view that the orientation of the blocks provides for the maximum levels of daylight



and sunlight to the units, and to the open spaces and is therefore the most appropriate. In relation to location, the site is an accessible site, within 900m of the Glencairn Luas Stop, in a built-up urban area, and is a site where higher densities are supported, as per Policy RES 3 'Residential Density' of the Development Plan. Higher densities, to my mind, by necessity result in apartment blocks being in proximity to one another, and therefore not always achieving the minimum separation distance of 22m above. I am of the view, that given the flexibility in relation to separation distances as set out in Section 8.2.3.3(iv) of the Plan, and given that the layout of the proposed development and the location of the site, comply with the criteria in order to take advantage of that flexibility, I am not of the view that the proposal represents a material contravention of the plan, as relates to separation distances.

#### Wind/Microclimate

12.5.27. A 'Wind Microclimate Modelling' report was submitted with the application. This concludes that wind flow speeds around the development are shown to be within acceptable conditions. Where winds speeds were increased as a result of the developments, mitigation measures including tree planting in the courtyards and around the development are recommended.

#### Private Open Space

12.5.28. All private amenity spaces in the development comply with or exceed the minimum required floor areas for private amenity spaces, as set out in Appendix 1 of the Apartment Guidelines. Private open spaces are provided in the form of balconies or ground floor terrace areas.

#### Dual Aspect

12.5.29. I note Specific Planning Policy Requirement 4 (SPPR4) of the aforementioned Apartment Guidelines, which state that:

'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.

(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'.

12.5.30. It is stated within the Housing Quality Assessment that the number of dual aspect units is 232 no. units, which equates to 52%. I note that there are a number of apartment types (Projecting Apartment Types) that are stated as being dual aspect, whereas this is achieved only by a projection on the floorplan. I have calculated that there are 31 of these units in total. If these units are not defined as dual aspect the overall provision of dual aspect units then drops to 201 units, which equates to 45%. However I am of the view that the site can be defined as an accessible site, given its proximity to the Luas and connections to same, and therefore the minimum standard of 33% dual aspect applies in this instance, having regard to SPPR 4. The proposal complies with this standard.

#### Mix

12.5.31. The Planning Authority has raised concerns in relation to the mix of units provided, and have stated that more 3+ beds should be provided, and the Planning Authority's Recommended Reason for Refusal No. 5 relates to same. The Planning Authority is however, not of the view that the proposed dwelling mix is a material contravention of their Development Plan, although observers have contended that it is. In relation to dwelling mix, Section 8.2.3.3(iv) of the Development Plan, states that 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. The proposed development is comprised of 158 no. 1 bed units (35.5%) and 287 no. 2 bed units (64.5%). As such the proposal is not in compliance with these standards. However, the Advisory Note prefacing Chapter 8 of the Development Plan states that the

'Specific Planning Policy Requirements' set out in the DoECLG Apartment Guidelines take precedence over the Dún Laoghaire-Rathdown standards and specifications as set out in Section 8.2.3.3 of the 2016 – 2022 County Development Plan. The Development Plan makes it explicitly clear therefore any relevant SPPRs will supersede any related standard as set out in Chapter 8 of the Development Plan. In this regard I note that SPPR 8 of the Apartment Guidelines state that there are no restrictions on the mix for BTR schemes. The proposals are therefore compliant with SPPR 8 of the Apartment Guidelines. I am not of the view, therefore, that the proposed development represents a material contravention of the Development Plan, as relates to Dwelling Mix and given that the proposals are in line with the Apartments Guidelines I am satisfied that the mix proposed in this instance is acceptable.

#### Floor Area

12.5.32. The BTR apartment floor areas meet or exceed the minimum standards provided in Appendix 1 of the Apartment Guidelines. I note that SPPR 8(iv) of the Apartment Guidelines states that the requirement that the majority of all apartments in a proposed scheme exceed the minimum floor area standards by a minimum of 10% shall not apply to BTR schemes. All of the proposed apartment units exceed the minimum standards for residential unit size.

#### **12.6. Surrounding Residential Amenity**

12.6.1. To the north of the site are dwellings that either front onto or have their gable ends onto Thornberry Road. To the east of the development site, beyond a strip of open land immediately abutting the site, lies Ferncarriag Avenue, with dwellings that either front onto or have their gable ends onto this road. To the south are dwellings at Grianan Fidh, which lie to the south of an area of green space and pedestrian footpath. To the south-west are dwellings at Cluain Shee. To the west, beyond the large elevated area of open space, is the Belmont residential development.

12.6.2. The applicant has submitted a report 'Sunlight, Daylight & Shadow Assessment (Impact Neighbours & Development Performance)' report that considers impacts on the dwellings that either front onto or have their gable ends onto Thornberry Road (Window Group B1), the dwellings to the east of Ferncarriag Avenue (Window Group



B2 – incorrectly referred to as B1 on page 7 of the report) and those dwellings at Grianan Fidh and at Cluain Shee (Window Group B3).

- 12.6.3. The submission from the Planning Authority states that the proposal will lead to overlooking and loss of privacy, given that a separation distance of 22m to neighbouring houses has not been achieved in all instances. Concern is also raised in relation to the daylight and sunlight analysis and impact on light to windows not facing within 90 degrees of due south. It stated that not all developments to the south have been considered.
- 12.6.4. Observer submissions have also raised concerns in relation to impacts on daylight, sunlight and overshadowing, and will lead to a loss of privacy and overlooking. It is stated that the impacts on surrounding areas have not been adequately assessed. It is also stated that the proposal will have a negative impact on the existing open spaces. It is further stated that insufficient details has been provided and the submitted sections do not show the full impact on neighbouring houses. Concern is also raised in relation to noise issues. Impacts relating to the proposed foul storage tanks are also raised as a concern.

#### Daylight and Sunlight

- 12.6.5. I note that the criteria under section 3.2 of the Building Height Guidelines include reference to minimising overshadowing and loss of light. 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.
- 12.6.6. 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. If the VSC, with the new development in place, is both less than 27% and less than 0.8 times its former value, occupants of the existing building will notice the reduction in daylight.

12.6.7. The Sunlight, Daylight & Shadow Assessment report considers the impacts on daylight to existing adjacent buildings, in terms of Vertical Sky Component (VSC) and considers impacts on sunlight, in terms of APSH, as well as overshadowing impacts.

#### Daylight

Section 1.3 summarises the impacts on surrounding properties. Of the 36 windows assessed for Vertical Sky Component, 36 (100%) will meet the target values as set out in the BRE Guidelines. I note only the windows on the lower floors have generally been analysed. However, impacts on these window are generally acknowledged as being the 'worst-case' scenario and I am satisfied with this approach. I note that the impact on daylight to the Block within Cluain Shee (located to the south-west of the 8 storey element with addresses recorded as 106-110 Cluain Shee) has not been considered within the report. The windows of these units are set back at least 42 m from the 8 storey element of this proposal. I am of the view, that having regard to separation distance (which is reasonable in an urban context), the limited extent of the 8 storey element (which would minimise potential shadow or VSC reduction) and the existing open courtyard to the east of 106-110 Cluain Shee (which will continue to provide good levels of daylight penetration), I am satisfied that while not quantified, any potential impact would be of a lower order and would on balance be justified. The site is zoned, and has, as per Development Plan provisions, the capacity to accommodate up to 6 storeys. To this end, while taller than Development Plan provisions, I am satisfied that it is not unreasonably so, and that the applicant has taken reasonable measures to reduce the impact while allowing for the sustainable development of the site for residential units

#### Sunlight

12.6.8. 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). The BRE Guidelines suggest that windows (to living rooms and conservatories) with an orientation within 90 degrees of due south should be assessed.

12.6.9. In terms of sunlight, it is stated that all windows which face within 90 degrees of due south were selected for analysis, although it is noted that not all of the windows

serve living rooms. Of the 24 no. windows assessed, 24 (100%) will meet the BRE Targets.

#### Shadow Analysis

12.6.10. In relation to overshadowing, the 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. This assessed 4 no. residential amenity areas to the north of the development site. Of the 4 amenity areas assessed (AR01-04), all 4 will meet the BRE target values for direct sunlight on March 21 (100% will meet the targets). A 2hr shadow plot for 21<sup>st</sup> March is included within the report. While a supporting Shadow Study, which demonstrates shadowing at other times of the year, is not included within the report, I do not consider that this is a fundamental omission, having regard to the requirements of BRE 209 and that the proposal complies with the standards as relates to overshadowing of existing gardens. The report indicates that well over 50% of the garden areas will achieve a minimum of 2 hours of sunlight on the 21<sup>st</sup> March (AR01 – 80.6%, AR02 71.5%, AR03 71.4% and AR04 65.6%). While not supported by a shadow study, impacts on the 4 amenity spaces are quantified in the report, which impacts of note identified during the late autumn/winter months. As such there will be impacts during the winter months, but as noted in the report, the sun amenity in these months is limited in any event, and in my view, any development of scale on this site will impact on sunlight levels to gardens during the winter months. The applicant has sought to minimise amenity impacts, including impacts to sunlight, by stepping down the height of the proposed development towards to the north of the site. I am satisfied, that on balance, impacts to sunlight on surrounding amenity areas will be acceptable.

12.6.11. In conclusion, and having regard to impacts to daylight and sunlight levels to surrounding properties, and as relates to overshadowing, I am satisfied that report has identified the vast majority of potential impacts, and the all of the properties considered will experience impacts that are in line with BRE Targets. In the one instance where impacts on daylight have not been considered, at 106-110 Cluain Shee, I am satisfied that having regard to the setback of same from the proposed development, as well as to the limited extent of the 8 storey element, and having regard to the open nature of the existing courtyard to the east of 106-110 Cluain Shee, any impacts on daylight are not significant.



### Overlooking/Loss of Privacy

- 12.6.12. In relation to those properties on Thornberry Road, to the north of the site, I noted Block AB is between 8.9m and 11.5m from the site boundary and the distance between the nearest directly opposing windows is 20.1m (from the northern elevation of Block AB to No.s 3 and 4 Thornberry Road). Block FG is located between 8.0m and xm from the site boundary. The distance to the nearest directly opposing windows is 22.8m (from the northern elevation of Block AB to No. 5 Thornberry Road). To east of the site, the separation distance from the proposed units to the nearest directly opposing windows are greater, and are a minimum of 40m from the proposed units. To the south and south east, minimum separation distances are least 34m and greater in most cases.
- 12.6.13. I note the separation distance to all of the surrounding properties proposed here exceeds the 22m separation distance between opposing first floor windows cited in Section 8.2.8.4(ii) of the Dun Laoghaire Rathdown Development Plan, save for the distance to No.s 3 and 4 Thornberry Road, which is 20.1m, and the distance to No's 1 and 2 Thornberry Road which is 20.7m). However in relation to the latter properties I do not consider that the shortfall in separation distance is substantial, and I am satisfied there is sufficient setbacks proposed in order to overcome any material loss of privacy. In conclusion therefore, I am of the view that the proposed development is sufficiently set back from all surrounding properties so as to ensure that no material impact from overlooking results.
- 12.6.14. In relation to visual impact, I have discussed this in detail in Section 12.4 above, and in summary I am of the view that the proposal has responded well to its context and has incorporated sufficient variations and reductions in height, where appropriate, to ensure that the proposal would not present an overbearing visual impact on surrounding developments.

### Foul Storage Tank

- 12.6.15. I note the proposed underground foul storage tank and pumping station is proposed to be located within the existing open space south of Grianan Fidh. The area within which the tank lies is some 7 m at the closed point from the nearest residential dwelling located within Grianan Fidh. It will have a total volume of 500 cubic meters and will have an underground footprint of 12500mm x 14500mm. The associated

kiosk will be located above ground and the dimensions of same are H: 1800mm W: 200 mm and D: 1200mm. It is proposed for an area in the immediate vicinity of the tank to be landscaped to provide a localised detention basin in case of a pump failure kiosk is proposed at surface level. I am not satisfied that the potential use of a localised detention basin is appropriate from both a public health and amenity perspective and the use of such a detention basin is not referenced within Irish Water's Code of Practice for Wastewater Infrastructure (July 2020, Revision 2). In the event of pump failure, alarm and notification systems are utilised, and the Code of Practice refers to tankers removing any excess volumes, rather than the use of a detention basin. As such, should the Board be minded to approve the proposed development, a condition should be imposed that the wastewater infrastructure should be designed and constructed to the requirements of Irish Water, and that the use of the proposed detention basin be explicitly excluded. Subject to this condition, I am satisfied that impacts on amenity from same would be minimal, given the tank is located underground, and will designed to the requirements of Irish Water, namely those contained within 'Code of Practice for Wastewater Infrastructure'. This code of practice describes in detail the requirements to be incorporated into the design of pumping stations and wastewater infrastructure and includes pump unit protection systems to cover potential for pump failure events, incorporation of dial out alarms/remote monitoring (telemetry) and emergency storage. In relation to the detention basin, I note that this feature will only be utilised in the event of a pump failure and I note that, as with the other elements of the foul storage tank, this feature will be designed to the requirements of Irish Water. The Code of Practice also includes provisions to prevent odour nuisance and to ensure noise and vibration is minimised.

## **12.7. Traffic and Transportation**

- 12.7.1. In relation to traffic and transport issues, I have had regard to the Traffic and Transport Assessment (dated March 2021), the Quality Audit (dated February 2021), the Operational Waste Management Plan (dated 15<sup>th</sup> March 2021), the Construction and Demolition Waste Management Plan (dated 15<sup>th</sup> March 2021) and the Construction Environmental Management Plan (dated 18<sup>th</sup> March 2021).
- 12.7.2. I have also had regard to the submission from the Planning Authority, from Prescribed Bodies as well as observer submissions.

12.7.3. The Planning Authority submission, in relation to Transport Issues, state that the site is not considered to be a central location and is not well served by public transport. It is stated that the area is suburban in nature and residents are heavily dependent on car transport. It is further stated that the proposed car parking ration is unacceptable and it will lead to inappropriate and illegal parking. Additional cycle and motorcycle parking is required. The planning authority are not opposed to the proposed development as relates to the impacts on the surrounding road network however.

12.7.4. Observer submissions state the proposal will result in adverse impacts on the surrounding road network and state that it will add pressure to the already over capacity public transport system. The limited bus services in the area are noted. In relation to car parking, observers have stated that there is insufficient car parking, and the proposal will lead to overspill parking on surrounding estates. It is further stated the proposal will lead to a road safety hazard. Deficiencies in the TIA are highlighted, including that the traffic survey data is outdated, impacts of other developments have not been considered, not all junctions have been modelled and that the methodology in the TTA is flawed. It is further stated that the existing cycle and footpath infrastructure is insufficient. The impact of construction traffic is also raised as an issue. Elected Members have cited concerns in relation to transport impacts and have cited similar concern raised by residents such as insufficient road infrastructure, insufficient parking and insufficient capacity on the Luas,

#### Public Transport

12.7.5. In relation to public transport serving the area, I have considered the accessibility of the site in Sections 12.3 and 12.4 above. I have considered the issue of capacity on the Luas in Section 12.4 above.

#### Access/Servicing

12.7.6. Vehicular access to the proposed development is from two no. locations. Access 1 will be located on the western boundary of the site, off Atkinson Drive. Access 2 is located to the north of the site off Thornberry Road. These will provide access to the (basement) level car parking and the cycle parking area. The TIA notes that the speed limit along Thornberry Road is 20 km/hr, and therefore a sightline of 23m in each direction at a setback of 2.4m has been achieved in line with DMURS. The



speed limit along Atkinson Drive is 30 km/hr and a sightline of 23m in each direction at a setback of 2.4m has been achieved in line with DMURS.

- 12.7.7. Refuse servicing will take place from a proposed layby on Atkinson Drive, with Autotrack Analysis indicated that service vehicles can safely manoeuvre into and out of this space. Bin stores are located at basement level. Bins will be wheeled to the surface for collection. The design has allowed for a fire tender to manoeuvre within the site.

#### Car and Cycle Parking

- 12.7.8. The Planning Authority stated that insufficient car parking has been provided and this will lead to inappropriate and illegal parking, leading to road safety issues (PA's recommended reason for refusal No. 4 refers). In relation to car parking, observers have stated that there is insufficient car parking, and the proposal will lead to overspill parking on surrounding estates.
- 12.7.9. In relation to car parking, Table 8.2.3 of the development plan sets out car parking standards which permit 1 no. space per 1-bed unit and 1.5 no. spaces per 2-bed unit. Applied to this development, it would represent a requirement of 589 spaces (rounding up). However, the Development Plan includes a caveat that reduced car parking standards for any development may be acceptable dependant of specific criteria including:
- 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.

12.7.10. The proposed development will include 354 car parking spaces, with 347 car parking spaces at basement level and 7 car parking spaces for visitors at surface level (4 no. creche spaces and 3 no. drop off / servicing spaces). The 340 basement parking spaces will be allocated to residents, with 0.8 space allocated per unit. 14 no, motorcycle spaces are proposed. It is proposed to provide 10% EV parking, in line with Development Plan requirements. 5 no. car club spaces are proposed.

12.7.11. In relation to the criteria as set out above, where reduced standards may apply, I note the following:

12.7.12. The site lies within a built up area and is within 900m of the Glencairn Luas Stop, with good pedestrian connections to same. The Luas line serves the Sandyford area, which is a high density commercial business area, with a journey time (walking and tram) from the proposed development site to the Sandyford Luas stop of approximately 20 minutes. The proposal is a Build to Rent (BTR) development, and I refer to SPPR8 (iii) of the Apartments Guidelines which states that there shall be a default of minimal or significantly reduced car parking provision for such BTR developments. The proposal and surrounding area is predominantly residential although retail and other services are within walking distance of the proposed site (including those at the Belarine retail development and at Sandyford Hall). While there is little in the way of on-street parking controls in the surrounding area, should additional overspill car parking become an issue it could be managed by the planning authority through the introduction of more restrictive measures on the surrounding public roads. I am not of the view that the proposal will lead to a traffic hazard or obstruction as contended by the Planning Authority. The applicants have submitted a Mobility Management Plan, the merits of which I have discussed below.

12.7.13. Having regard to the above considerations, and having regard to the flexibility set out in the Development Plan as relates to parking standards, I am the view that the overall provision of parking does not represent a material contravention of the Development Plan and, on balance, I am satisfied that the provision of 354 no. spaces is acceptable in this instance and complies with the standards set out in SPPR8 (iii) the Apartments Guidelines which states that there shall be a default of minimal or significantly reduced car parking provision for BRT developments.

#### Cycle Parking

12.7.14. It is proposed to provide a total of 638 cycle parking spaces to serve the respective development. In total 61 cycle spaces will be provided at surface level for visitors, with 566 cycle parking spaces being provided at basement level for residents. The residents cycle parking will comprise of 30 Sheffield stands (60 spaces) and 480 stacked cycle parking spaces. This above Development Plan standards of 534 spaces but below the Apartment Guideline cycle parking standards of 955 spaces. Should be Board be minded to grant permission additional cycle parking should be requested by way of condition.

#### DMURS

12.7.15. Section 4 of the Transport Assessment considers compliance with DMURS. Pedestrian footpath widths, crossings, visibility splays and corner radii are all in compliance with DMURS. Landscaping, materials and finishes and signage and lining, have been considered in relation to the requirements of DMURS. There is no discussion of permeability. However I note that the proposal increases permeability with the provision of additional north-south connections through the proposed development.

#### Impacts on the surrounding road network.

12.7.16. The Traffic and Transport Assessment (TTA) states that a Traffic Survey was undertaken on Thursday 3<sup>rd</sup> October 2019 and a total five junctions were surveyed. In order to determine Traffic Growth, a Design Year of 2023 is expected, and in line with TII Guidance, Future Design years (+5 and +15 years, 2028 and 2038) were adopted. The TTA states that growth rates of 1.46% per annum for Low Sensitivity Growth Rates were used, reducing to 0.34% per annum from 2030 – 2040 (LV rates used). I note that the guidance referred to (Project Appraisal Guidelines for National Roads Unit 5.3 - Travel Demand Projections – PE-PAG-02017 – May 2019)<sup>1</sup> state that the central growth rates are intended for use in project appraisal with the low and high growth rates to be used as sensitivity tests for economic and environmental impacts. No justification is set out in relation to the use of the Low Sensitivity Growth Rates. I note that the Central Growth rate, as set out in the above TII guidance, is 1.68% per annum for light vehicles, reducing to 0.51% per annum for 2030-2050.

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<sup>1</sup> PE-PAG-02017 (tiipublications.ie) (accessed 18/06/2021)



12.7.17. In relation to trip distribution, it is stated that for traffic travelling to/from the subject development it has been assumed that they will arrive and depart the site in the same manner to how the existing travel arrives / departs the site. In relation to trip generation, it is expected that a total of 163 movements would be generated at the AM peak hour, with 147 movements in the PM peak hour. This refers to the use of TRICS to calculate movements (as presented in detail in Appendix C) and as such is in line with Guidance produced by the TII in relation to Traffic and Transport Assessments.<sup>2</sup> In terms of impacts on the surround road network, Table 5.5 sets out percentage impacts on the five junctions assessed. This compares impacts to the permitted scheme of 2016 and sets out a net increase over and above this. As per observer submissions, I do not consider that this is an appropriate methodology. The impact in my view should be assessed solely against the baseline traffic conditions and the impact of the proposed development. Notwithstanding, utilising the data within the TTA, it is possible to assess if the additional traffic generated by the development exceeds the 5% threshold for each junction, and therefore warrants further assessment. I have set this out below.

Junction	AM Net Increase	PM Net Increase
Junction 1 - R117 / R113	1.79%	4.36%
Junction 2 - R117 / Village Road	6.69%	8.71%
Junction 3 - Village Road / Belmont Drive	16%	27.2%
Junction 4- Village Road/Atkinson Drive	32.2%	29.1%

<sup>2</sup> PE-PDV-02045 (tiipublications.ie) (accessed 25/05/2021)

Junction 5 – R117/Belarmine Avenue	6.12%	3.5%
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12.7.18. As such it can be seen then that Junctions 2, 3, 4 and 5 exceed the 5% threshold, rather than only Junction 3 as recorded in the TTA. Notwithstanding the TTA does carry out modelling for Junctions 3,4 and 5. In terms of the impacts on these junctions, it is concluded that they will continue to operate within capacity throughout the assessment years with the proposed development in place.

12.7.19. Notwithstanding the concerns I have raised above, including the use of the slightly lower growth rate, the result of the assessment indicate that the junctions analysed are operating well within their capacity and will do so with the development in place. I also note that it is possible that greater levels of working from home and associated changes in Government policy supporting this could support the use of lower growth rates.

12.7.20. I note that the survey data was obtained in October 2019 and observers have stated that the traffic data is outdated. There is no indication in the TTA as to why more recent data has not been provided. However, I have had regard to the restrictions imposed as result of the Covid 19 regulations, which from March 2020 to recently, have restricted movement throughout the country. In addition, I am of the view that even if surveys were taken from March 2020, they would not necessarily be indicative of traffic volumes, due to same restrictions. While I note the concern of observers in relation to the limitation of the traffic survey data, which was limited to one day, I am not of the view that this is fundamental. While perhaps it may have been preferable to have a wider analysis of traffic data over a longer period of time, there is no evidence that the day/date/time of the survey would have meant that traffic levels different from the norm would have been experienced. While observers have stated that traffic congestion is an issue in the area, the survey data utilised in the junction analysis, indicates that Junctions 3, 4 and 5 are operating within capacity. While Junction 2 should have been modelled, as it exceeds the 5% threshold, I note that the levels of traffic generated are not significantly above that associated with previous planning permission on this site (Ref D06A/0511) and as

such any impacts resulting from this development have largely been accepted previously by the Planning Authority. I note also that upgrade works to Junction 1 (R117 / R113) have recently been completed, which will improve capacity of same with knock on benefits to the functioning of Junction 2, and the surrounding road network (although this is not modelled in the report). I note also the reduced car parking ratio (at 0.8 spaces per unit) which will reduce the overall impact of private car uses, relative to the impact of a car parking provision that is closer to the 'standard' provision as set out in the Development Plan. The site is served by a high frequency light rail network, with good pedestrian links to same, and as such this will also serve to minimise the use of private cars, reducing the overall impact on the surrounding road network.

12.7.21. Section 7 of the TTA sets out an Outline Construction Management Plan which sets out recommendations that Construction Traffic accesses and exits the site from the M50 Junction 14 travelling down the Kilgobbin Road, turning right onto the R113 then turning left onto the R117 and onto the Village Road which will lead to the site, this route is approximately 1.77km in length. Observers have noted that the R113 is not fit for this purposes, due to the 3 tonne limit in place, and its insufficient width. I share the view that Hillcrest Road is not fit for this purpose. However, should the Board be minded to grant permission, a revised Construction Management Plan should be required indicated a route that avoids the Hilcrest Road. I am also of the view that site access and egress during the enabling works should be limited to the existing Village Road access only, to limit the impacts of construction movements on surrounding roads and dwellings.

12.7.22. Section 8 of the TTA is an Outline Mobility Management Plan. This sets out measures/initiatives to encourage walking, cycling, utilisation of public transport and car sharing. The most effective of these in my view involve the provision of the required infrastructure such as adequate cycle parking and the provision of walking and cycling infrastructure where possible. In relation to the latter, the provision of a shared surface within the development is noted. The surrounding roads, Thornberry Road and Akinson Road do not have cycle paths but speeds are limited to 20 kmph and would provide a safer environment than those roads with higher speed limits. There is existing cycle infrastructure on Village Road.



12.7.23. In conclusion therefore, while I note there are some deficiencies within the TTA, I do not consider that these render the overall conclusions within same, as relates to the impact of the development on the surrounding road network, fundamentally flawed, and having regard the considerations as detailed above, I am satisfied that the any impacts on the surrounding road network will be acceptable, in terms of additional traffic volumes, and will not be significantly greater than that previously accepted under the most recent permission on this site.

## 12.8. Ecology/Trees

12.8.1. Observer submission have raised concerns in relation to Impacts on wildlife including hedgehogs, squirrels and birds nesting at this location. It is noted that no wintering bird survey undertaken and the Ecology study was a desktop study only. It is stated that the pond in Belarmine Park could be favoured by wintering birds and that this could be impacted by the construction of the storage tank. It is further state that no bat or bird survey carried out and the Technical note makes no reference to the grassland and. pond habitat. Reference 7 in the Bird and Bat Technical Note is invalid and that many birds from the amber list are present in the area including tree sparrows, house sparrows and starlings. It is stated that a bird and bat survey should be carried out. It is noted that there are protected hedgehogs on the green space. It is stated that there is a population of Red Grouse in the Three Rock/Two Rock mountain area (Irish Red List Protected under the Wildlife Act/Listed under Annex III/I and also under Annex II/I) and that sightings are regularly made within 2.5km of the proposed development. Concern is raised in relation to the impact of the development on trees to the east.

12.8.2. The application is accompanied by a 'Bat and Bird Technical Note'. In relation to bats, the report states that the development site is not considered to be a particularly sensitive site for bats. It is stated that it is unlikely to be part of any important commuting route used by bats and the highly disturbed state of the site with very limited treeline habitat is very unlikely to support any significant bat populations. Reference is made to previously produced m Ecological Impact Assessment and Preliminary Ecological Appraisal report for a development at Murphystown Way which have recorded mostly common species such as common pipistrelle, soprano pipistrelle, and Leisler's bats. It is concluded that the removal of the limited available foraging and commuting habitats, and the introduction of additional lighting, will have

not have a significant negative impact on any local bat populations and furthermore, the materials utilised will help to minimise the risks of collisions.

- 12.8.3. In relation to Birds, it is stated within the report that the site is not regarded to be a particularly sensitive site for breeding birds. Amber listed species (house martin *Delichon urbicum*, house sparrow *Passer domesticus* and red kite *Milvus milvus*. have been identified through a desktop study. No significant risk of collision is expected from the development and as per above, the materials utilised will help to minimise any such risk. It is reported that there is no managed grassland on the site which could be favoured by migratory wintering birds as an inland feeding habitat. The report concludes that the proposed development is not expected to cause any significant effect on these species at a local scale or any other geographic scale.
- 12.8.4. I note that no Ecological Impact Assessment Report (EclA) has been submitted. I also note that no dedicated bat or bird survey has been carried out. However, the site is of limited ecological value, in my view, given the level of ground disturbance on the site to date, although the site does appear to have been overgrown in recent years by scrubland vegetation and a small number of trees, which are now at semi-mature state. I note the Bat and Bird Technical Note states that the site contains no managed grassland which could be favoured by migratory wintering birds as an inland feeding habitat. This contradicts the findings of the AA screening report which states that the area of the proposed foul storage tank, to the south of Grianan Fidh, is managed grassland. However, the AA screening report rules out its use for wintering birds for reasons of its limited extent, the surrounding treelines and lack of evidence of its use by wintering birds I have concurred with the conclusions of same.
- 12.8.5. Specifically in relation to bats, I am satisfied that the site itself has very little potential to accommodate bat roosting, or bat foraging, given the brownfield nature of the site, with very limited biodiversity value, and with very limited treelines. In relation to the treeline to the east of the site, this does have has the potential to support foraging, in my view, although this has not been established. There is no detailed discussion of this treeline's potential for same in the Bat and Bird Technical Note. However I do note that this treeline is to be retained as part of this application and there is a setback of at least 8m from the eastern site boundary. The open nature of the space to the east of the tree line remains unaffected. I note also that the majority of the site is zoned for residential development and that there is an extant development on this

site (D16A/0511 for 243 apartment and duplexes ranging in height from 3 to 6 storeys) and of a development of scale on this site has been previously accepted and subsequently acceptance of any potential disturbance to bats has been established, and in any event it is not considered significant. I am not of the view that installation of the pumping station and foul storage tank will have an impact on bats given the tank is located underground and there is only very limited above ground infrastructure.

12.8.6. Specifically in relation to birds, I note again the brownfield nature of the site, which is dominated for the most part by scrubland vegetation and a limited number of semi-mature trees. Observers have submitted no documentary evidence in respect of the wintering birds and the expert ecologist engaged by the applicant has found no evidence of these birds, or no likelihood of such birds being able to use the site based on the existing habitat. As per the discussion in Section 11 (Appropriate Assessment) above, I am not of the view that installation of the pumping station and foul storage tank will have an impact on wintering birds, given there is no evidence that the amenity grassland area within which the tank located is utilised by wintering birds. I note also the habitat is to be restored post-installation, with only the kiosk being visible above ground.

12.8.7. In relation to the issue of the impacts on hedgehogs specifically, observers note that hedgehogs are breeding near the boundary wall to the east of the site. This area is not been altered under this application and as such I am satisfied that there will be no impact on same.

## 12.9. Trees

12.9.1. An Arboricultural Assessment has been submitted with the application. This considers the impact of the development on the trees to the east of the site at the Ferncarrig housing development. In relation to same, it is stated that the roots of the trees do not appear to have gone beyond the existing wall foundations and there is no need for the installation of tree protection fencing for root protection during the works. A further report entitled 'Arboricultural Assessment, Arboricultural Impact and Tree Protection Strategy Report' has been submitted which considers the impacts on trees in the location of the proposed underground wastewater storage tank. A total of 23 trees were identified and assessed and 18 were considered Category B and 5



considered to be Category C. The condition of the trees was considered to be moderate. 4 no trees are proposed to be removed, which will considers of 4 alder trees on the northern boundary. It is noted that these trees provide some screening to the apartment units closest to the boundary. It is further noted that the removal of the trees will result in increased light for the remaining specimens, the largest and more development of which remain along the north-most edge of the group. A Tree Protection Strategy is set out for the reminder of the trees. The mitigation measures and protection measures as relates to the trees on the eastern boundary of the larger portion of the site and as relates to the trees on the area proposed for the foul storage tank should be required by way of condition.

#### 12.10. Flood Risk

- 12.10.1. Section 9.3 of the National Planning Framework (NPF) includes guidance for water resource management and flooding with emphasis on avoiding inappropriate development in areas at risk of flooding. National Policy Objective 57 requires resource management by “ensuring flood risk management informs place-making by avoiding inappropriate development in areas at risk of flooding in accordance with The Planning System and Flood Risk Management Guidelines for Planning Authorities”.
- 12.10.2. Observers on the application have stated that the site has had previous flooding issues, and the proposed development would increase flood risk. It is stated that a Stage 3 Flood Risk Assessment be completed for this site as the applicants are unable to determine conclusively if there is a groundwater flood risk on the site
- 12.10.3. I note the previous SHD application on this site (Ref 306471-20) was refused for two no. reasons, one of which related to the existing deficiency in the provision of adequate wastewater infrastructure serving the subject site and the lack of certainty in relation to the wastewater network capacity to accommodate the proposed development without increasing the risk of flooding.
- 12.10.4. A Flood Risk Assessment accompanies the application (dated March 2021). This notes that the nearest watercourse to the development site is the Ballyogan Stream which lies he nearest watercourse to the development site is Ballyogan stream which lies c. 170m south of the proposed site. It is also noted that the proposed foul tank is located 45m from the Ballyogan Stream. No flood events have been recorded on the

site. The Eastern CFRAM predicative flood map indicates no fluvial risk to the proposed site and foul tank location for the 10%, 1% and 0.1% AEP events. It is noted that groundwater may be a flood risk to the west half of the site due to the low depth to bedrock levels, however, there is no historical flood event recorded of prolonged groundwater flooding. The PFRA considered flooding from groundwater sources. The PFRA groundwater flood maps, which provide an indication of vulnerability to groundwater flooding, did not show any significant risk on the site.

12.10.5. In relation to the potential for foul water flooding, the FRA notes that this was a raised as an issue in the previous application on site with Irish Water raising concerns in relation to upgrade works necessary in order to avoid flooding downstream from the Aiken's Village Area caused by stormwater entering the foul system, and the need for an online storage facility. The proposed overflow tank will provide overflow storage and reduce the volume of storm surge contributing to the foul discharge during extreme storm events, therefore reducing the flood risk. The FRA sets out details of this storage tank (as does the Drainage Design Report report). It is stated that the upgrade works required will consist of the construction of an underground overflow storage tank with a volume of 500m<sup>3</sup>, the volume of which will also accommodate future development in the area. Irish Water have stated that the provision of this tank is necessary to overcome their concerns in relation to surcharge flooding raised by the previous SHD application on this site. Given that Irish Water have now issued a Statement of Design Acceptance for the foul water proposals, I am satisfied that the Board's previous concerns in relation to foul water/storm water flooding (as expressed in Reason No. 1 of the previous refusal) have now been satisfactorily addressed.

12.10.6. In terms of surface water management, details of same are set out in the FRA (and also within the Drainage Design Report) and I have considered same in Section 12.11 below. In summary, I am satisfied the proposals for surface water management are adequate for the site and will ensure the risk of flooding of the proposed development and existing surrounding developments is minimised. The surface water attenuation infrastructure has been designed for a 1% AEP event plus a 10% allowance in the attenuation tank volume to account for climate change. In the event of a surcharge of the attenuation tank, the FRA sets out that the exceedance

flow will follow the path of the Village Road before entering the Ballyogan Stream (referred to as the Kilgobbin Stream in Section 4 of the FRA).

12.10.7. Residual risks are considered within the FRA and the main residual risk to the development is the potential failure of the of the stormwater drainage system. To manage this risk finished floor levels (FFLs) of 150mm above local hardstanding ground have been proposed.

12.10.8. In relation to the conclusions of the report, I am satisfied that the site is not subject to pluvial, fluvial flooding, groundwater or tidal flooding, notwithstanding the comments of observer submissions. I have examined the mapping available on the OPW run website 'Floodinfo.ie' and this does not indicate any previous flooding events in the vicinity of the site. The Planning Authority have not raised any concerns and the report from the Drainage Section states that conclusions of the Flood Risk Assessment are accepted. In relation to the operational stage of the development I am satisfied that the measures outlined in the FRA are sufficient to ensure that no residential properties on the site or adjacent to the site will be at an increased risk of pluvial flooding.

12.10.9. In conclusion, having regard to the fact that the site lies within Flood Zone C, the lack of an evident history of flooding on the site itself and having regard to the foul and surface water management proposals as set out in the application documents, I do not consider that the proposal will increase flood risk on this site or on surrounding sites, subject to conditions.

#### 12.11. Site Services

12.11.1. I note the previous SHD application on this site (Ref 306471-20) was refused for two no. reasons, one of which related to the existing deficiency in the provision of adequate wastewater infrastructure serving the subject site and the lack of certainty in relation to the wastewater network capacity to accommodate the proposed development without increasing the risk of flooding.

12.11.2. The proposal has sought to address this reason for refusal via the provision of an online foul/storm water storage tank, located underground within an area of green space to the south of Grianan Fidh housing development. I have set out further details of this below.



12.11.3. The Planning Authority have stated that, in relation to drainage issues, previous concerns of the first SHD in relation to attenuation storage have been addressed.

12.11.4. Irish Water have stated that an online storage tank is required in order to mitigate flooding risk, with an initial volume of 250 cubic metres, with the facility to accommodate 500 cubic metres at a later date, via modular expansion, to serve future connection applications. This on-line storage tank is intended to accommodate stormwater during a 1 in 30 yr storm event, and capture excess stormwater volumes occurring within the foul network due to surface water misconnections to the existing foul network system, ensuring that excess water/flooding is directed into the proposed tank and away from flood locations, thus providing the required foul capacity needed to serve this and other developments, in particular during storm events, and alleviating possible surcharge flooding. Foul sewers in the proposed development site will be re-directed to this tank, and from there, foul effluent is pumped from the tank to the existing sewer network to Shanganagh Wastewater Treatment Plant (WWTP) for treatment prior to discharge to Killiney Bay. Irish Water have confirmed that a Statement of Design Acceptance has been issued for the development, and have requested conditions be attached to any grant of permission.

12.11.5. Observer submissions have raised concerns in relation to the adequacy of existing waste water infrastructure, and have also raised concerns in relation to the foul water/storm water storage tank and the lack of detail in relation to same, include its operation and maintenance. Noise, odour and health impacts of the storage tanks are raised and it is stated that the tank is not designed in line with Irish Water's Code of Practice for Wastewater Infrastructure. It is also contended that the design of the storm water network is inadequate and it does not comply with the DLRCC storm water management policy and that a combined hydraulic model of the surface water design has yet to be completed.

#### Foul

12.11.6. The proposed foul sewer works will include a new foul sewer network and the relocation of the existing foul sewer serving the existing occupied development to the north. It is proposed to relocate the existing foul sewer to the perimeter of the site. The capacity of the relocated pipe is sufficient to accommodate the 140 no. existing dwellings to the north and from the proposed blocks F, G, H and J. Blocks A, B, C, D

and E will discharge through a separate foul sewer network to the Local Authority foul sewer. Specifically in relation to the previous reason for refusal on this site, it is proposed to provide a foul water/storm water storage tank on public open space south of the subject site (to the south of Grianan Fidh) on lands owned by DLRCC. DLRCC have given consent to include these lands in the planning application and to carry out the necessary works if permission is granted. As noted above this has been requested by Irish Water in order to avoid flooding downstream from the Aiken's Village Area caused by stormwater entering the foul system.

12.11.7. The FRA, the Drainage Design report and drawings submitted with the application (DWG No.s D1636-D1000 and D18) set out details of this storage tank. It will have a total volume of 500 cubic meters and will have an underground footprint of 12500mm x 14500mm. The associated kiosk will be located above ground and the dimensions of same are H: 1800mm W: 200 mm and D: 1200mm. It is proposed for an area in the immediate vicinity of the tank to be landscaped to provide a localised detention basin in case of a pump failure. I note that a number of observers have stated that the storage tank has not been designed in accordance with Irish Water's Code of Practice. However, as per the detailed discussed in Section 11 (Appropriate Assessment) I note that the detailed design of same is required to be in compliance with the requirements of Irish Water and that such requirements include the need for an alarm system in the case of failure and remote monitoring of the pump station/storage tank. As per the discussion in Section 12.6 above, is proposed for an area in the immediate vicinity of the tank to be landscaped to provide a localised detention basin in case of a pump failure kiosk is proposed at surface level. I am not satisfied that the potential use of a localised detention basin is appropriate from both a public health and amenity perspective and the use of such a detention basin is not referenced within Irish Water's Code of Practice for Wastewater Infrastructure (July 2020, Revision 2. The use of tankers is referenced within this document to transfer excess volumes from a tank should pump failure occur (and not rectified within an appropriate timeframe). Should the Board be minded to approve the proposed development, a condition should be imposed that the wastewater infrastructure should be designed and constructed to the requirements of Irish Water, and that the use of the proposed detention basin be explicitly excluded.

12.11.8. In conclusion, having regard to the detailed submission from Irish Water in relation to the need for the foul water/storm water storage tank, and noting that Irish Water have issued a Statement of Design Acceptance for the development, I am satisfied that the applicants have overcome the previous reason for refusal and the proposed arrangements for foul water are acceptable.

Surface Water/Storm Water

12.11.9. The submitted Drainage Design Report notes that there is an existing storm water sewer running through the site which connects existing underground concrete attenuation tank located on the site, which then eventually outfalls to the Ballyogan Stream. It is proposed to divert this sewer traversing the site to accommodate the proposed new development. The proposed surface water strategy incorporates a wider area than the site, as detailed in the Drainage Report (Sub-Catchments A and B to the north, and Sub-Catchment D to the west, are existing occupied developments, Sub-Catchment C is the proposed development). The existing attenuated flow from Sub-catchment A discharges to the surface water sewer system in Sub-catchment B. The surface water drainage system for Sub-catchment B & Sub-catchment C will then be attenuated in proposed and existing underground concrete storage tanks and blue roofs. This will then be discharged from the site via the existing storm water drainage network and through an existing flow control device (limiting the site runoff to  $Q_{BAR} = 53.3\text{l/s}$ ) using the existing connection to the storm water drainage network along Village Road. The proposed surface water attenuation is also designed to accommodate the surface water from the existing occupied development to the west of this site (Sub-Catchment D) which currently discharges to the Cluain Shee development to the south-west of this site, as detailed in the Drainage Design Report, in line with requests from the Planning Authority. The report from the Drainage Section of the Planning Authority states that the proposals generally satisfy their requirements subject to conditions and appear to be satisfied that the proposed attenuation storage provided by the existing and proposed attenuation tanks and by the blue roofs will be appropriate.

12.11.10. I am generally satisfied that, subject to the conditions as suggested by the Planning Authority, the proposed surface water infrastructure will be adequate to serve the proposed development.



## 12.12. Social/Community Infrastructure

- 12.12.1. The Planning Authority has stated that the applicant has failed to demonstrate that there is sufficient supporting community infrastructure to cater for the predicated future demand including childcare, schools and local community facilities and reason for the Planning Authority's recommended reason for refusal no. 2 relates to same.
- 12.12.2. Observer submissions have stated that there is insufficient school and GP capacity and there is a lack of crèche facilities in the area. The lack of a larger supermarket is also raised as an issue.
- 12.12.3. The applicant has submitted a Childcare Needs Assessment and an Education Needs Assessment have been submitted. In addition the Design Statement sets out details of shops and services in the area (page 11 of same). In relation to childcare, the Childcare Needs Assessment concludes that the proposed provision of a 514.9 sq. m crèche with the capacity to cater for c 60 no. children is sufficient to serve the development. In relation to schools, the Educational Needs Assessment concludes that is the demand for school places arising from the proposed development, at Primary and Post-Primary level, will be catered for by the existing and planned educational facilities in the catchment area. I am satisfied that the demand for childcare places generated by the development will be catered for by the proposed development. In relation to the provision of schools, I note it is not within the applicant's gift to provide same, and it is the remit of the Department of Education. There is no requirement within the current statutory development plan to provide a school on this site and I am not of the opinion the provision of housing on this site that is zoned for residential development should be halted due to a perceived lack of capacity for school places.
- 12.12.4. In terms of other services, the site is within walking distance of a larger number of shops and services, as detailed on page 11 of the applicants Design Statement, including those at the Belarine retail development and at Sandyford Hall. As such I am of the opinion that the site is well served by same.

## 12.13. Other Issues

- 12.13.1. Property Values – Property Values – The Planning Authority as well as a number of submissions have stated the proposal will result in a reduction in property values. This contention is not supported by any wider analysis of the overall impacts of the

development (i.e. impacts of additional shops and services on property values etc) and I do not consider the Board has sufficient evidence before it to conclude that the proposal would have an adverse impact on property values.

12.13.2. Telecommunications – A Telecommunications Assessment has been submitted which rules out any impacts on surrounding telecommunications infrastructure.

12.13.3. Archaeology – There is no Archaeological Impact Assessment submitted with the proposal. However, I note the site does not lie within a zone of Archaeological Potential, as identified on Map 6 of the County Development Plan. Map 6 does show an area of archaeological interest on the green space to the south-west of the southern portion of the site (labelled 022-069). Mapping Information on the Historic Environment Viewer on Archaeology.ie<sup>3</sup> website indicates that this is classed as a 'Designed landscape - tree-ring'. The proposal does not impact this area. I have had regard also to the previous works on the site, which include the underground attenuation tank works, which would have an impact on archaeology. The Planning Authority have not raised any concerns in relation to potential impacts on archaeology nor have observer submissions. However, I am of the mind, that a standard condition in relation to an archaeological appraisal and monitoring would be expedient in this instance and if the Board is minded to grant, I recommend the imposition of same. I do not consider that the lack of an Archaeological Impact Assessment represents a material deficit in terms of the information provided, and I am satisfied that there is sufficient information before the Board, including that information available in the public domain on the Historic Environment Viewer on Archaeology.ie, to conclude that, subject to conditions, there is unlikely to be any significant impact on existing archaeology on the subject site, or on any archaeological features in proximity to the site.

#### 12.14. Planning Authority's Submission including Recommended Reasons for Refusal

12.14.1. The Planning Authority Recommend that the proposed development is refused permission for 5 no. reasons as set out below.

1. *It is considered that the proposed scheme would seriously impact on existing and future residential amenities, and depreciate the values of those properties*

<sup>3</sup> <https://maps.archaeology.ie/HistoricEnvironment/> (accessed 9<sup>th</sup> July 2021)

*through a lack of quality open space provision significant levels of overlooking and overshadowing, and by appearing unduly prominent, overbearing and out of context, when viewed from surrounding areas; contrary to Sections 8.1.1.1 Policy UD1: Urban Design Principles, 8.1.2.3 Policy UD6: Building Heights Strategy, 8.2.3.1 Quality Residential Design and 8.2.3.3 Apartment Development of the Dun Laoghaire-Rathdown County Development Plan 2016-2022.*

12.14.2. I have considered the impacts on existing residential amenities in Section 12.6 above and in summary, I do not concur that the proposal would have a negative impact on the amenities of surrounding properties, having regard to reductions in height in proximity to the properties to the north and the setback of existing properties relative to the proposed development. I have considered the issue of future residential amenities in Section 12.5 above and I have concluded that, although there are some minor shortfalls in daylight and sunlight which have been identified, the overall levels of daylight and sunlight provision are acceptable, having regard to the compensatory design solutions provided and the achievement of wider planning aims such as securing the regeneration of an underutilised urban site. I consider the proposed open space provision is of high quality and exceeds minimum standards for same. I have considered design and visual impact in detail in Section 12.4 above and in summary I have concluded that the proposal would respond well to its context and would not present an overbearing form of development when viewed from surrounding properties or from the public realm. I have considered the issue of property values in Section 12.13 above and I have concluded that there is no evidence that property values would be negatively impacted upon.

2. *The proposed scheme fails to demonstrate that there is sufficient supporting community infrastructure to cater for the predicated future demand including childcare, schools and local community facilities contrary to Sections 7.1.3.1 Policy SIC 6 Community Facilities, 7.1.3.2 Policy SIC7: New Development Areas and Section 8.2.3.5 of the Dun Laoghaire-Rathdown County Development Plan 2016-2022.*

12.14.3. I have considered the issue of supporting community infrastructure in Section 12.12 above and I am of the opinion that the site is well served by same, including but not



limited to, shops and services at the Belarine retail development and at Sandyford Hall.

3. *The proposed development, if implemented, would result in a situation whereby D10A/0440 (as amended by subsequent amending permissions) could not be completed in accordance with condition 1 of that permission by virtue of the fact that the southernmost portion of the permitted development would be within the footprint of the proposed development. The permission under D10A/0440 has begun to be implemented. As such the option of implementing the subject proposal rather than the permitted scheme is not available. In addition, in terms of services and open spaces, the following have yet to be delivered as part of Reg. Ref. D10/0440 – 2 no. retail units, 4 no. office units, a crèche, a sports hall and the principle open space area. In light of the foregoing the development would materially contravene a condition attached to an existing permission for development and be prejudicial to the orderly development of the area.*

12.14.4. I have considered this issue in Section 12.2 above and I have concluded that any enforcement issues are a matter for the Planning Authority and do not fall within the remit of the Board.

4. *Due to the site's location, it is not considered a suitable location for the provision of a Build to Rent (BTR) apartment scheme. The site is not a 'more central' location well served by public transport or a highly accessible area such as in or adjoining city cores or at a confluence of public transport systems such as rail or bus stations located in close proximity, as referenced in Section 4.19 of the DHPLG Design Standards for New Apartments. Similarly the site is not in a location in or adjacent to (i.e. within 15 minutes walking distance of) city centres or centrally located employment locations, as referenced in Section 4.2 of the DHPLG Design Standards for New Apartments. The site is not well served by public transport, the site's proximity/accessibility/connectivity to good public transport is overestimated in the submitted application, and the site is not sufficiently located near large retail units and services that would negate the need for a car. The area is highly suburban in nature and the proposed development would have a significant negative impact on existing residents' amenity in terms of the*

*unrealistic low provision of car spaces in an area that already suffers with traffic management issues. The proposed development would endanger public safety by reason of being a traffic hazard or obstruction to road users or otherwise.*

12.14.5. I have considered the issue of the suitability of the site for a BTR scheme in Section 12.2 above and have considered the accessibility of the site generally in Sections 12.2, 12.3, 12.4 and 12.7. I have considered the issue of shops and services in Section 12.12 above. I have considered the issue of car parking and road safety in Section 12.7 above and I have concluded that the quantum of parking is acceptable and will not lead to any road safety issues, as a result of overspill parking.

*5. The proposed mix of units, and notably the lack of larger units of 3+ bedrooms would fail to deliver an appropriate mix of housing types in accordance with Policy RES7 of the County Development Plan. It is considered that notwithstanding the profile of the existing housing stock in the area, that a scheme of this size should provide a more appropriate balance of apartment sizes.*

12.14.6. I have considered the issues raised above in Sections 12.5 of this report. I do not concur with view of the Planning Authority in relation to same and in summary I consider that proposal provides of a mix of apartments units that positively contributes towards the dwelling mix for the area, and is in line with SPPR 8 of the Apartment Guidelines, as related to BTR proposals.

### **13.0 Conclusion and Recommendation**

The proposed BTR residential scheme is acceptable in principle at this site with regard to the relevant zoning objectives of the Dun Loaghair Rathdown Development Plan. The provision of a higher density residential development at this location is desirable having regard to its location within the Dublin Metropolitan Area, its proximity to existing public transport services and having regard to the existing pedestrian and cycle infrastructure facilities. In addition, the site is located in an area with a wide range of social infrastructure facilities. The height, bulk and massing, detailed design and layout of the scheme are acceptable. I am also satisfied that the development would not have any significant adverse impacts on the amenities of the

surrounding area. The future occupiers of the scheme will also benefit from a high standard of internal amenity and the proposal will contribute significantly to the public realm. The overall provision of car parking and cycle parking is considered acceptable, subject to conditions. I am satisfied the future occupiers of the scheme will not be at risk from flooding, and the proposal will not increase the risk of flooding elsewhere.

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

## 14.0 Recommended Order

### Planning and Development Acts 2000 to 2019

#### Planning Authority: Dun 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 29<sup>th</sup> Day of March 2021 by Ironborn Real Estate Limited care of Stephen Little & Associates, Chartered Town Planners and Development Consultants 26/27 Upper Pembroke Street, Dublin 2, D02 X361

#### Proposed Development:

The development will consist of: -

- 445no. 'Build-to-Rent' apartment units (158no. 1 bedroom units and 287no. 2 bedroom units) arranged in 9 no. blocks ranging in height from 2 – 8 storeys over 2no. independent single level basements. Private patios / terraces and balconies are provided for all apartment units. Upper level balconies are proposed on elevations of all multi-aspect apartment buildings.
- Blocks A – D are located above Basement 1 (5,949 sq. m gross floor area) and Blocks F – J are above Basement 2 (5,058 sq. m gross floor area).
- Provision 1 no. childcare facility (c. 514.9 sq. m gross floor area) in Block D.



- Provision of resident amenity space / communal areas (c. 1,455.7 sq. m gross floor area) in Block C and Block G.

And all associated and ancillary site development, infrastructural, landscaping and boundary treatment works including: -

- New vehicular access to / from Basement 1 from Atkinson Drive and new vehicular access to / from Basement 2 from Thornberry Road.
- Provision of c. 9,799 sq. m public open space, including a public plaza onto Village Road and improvement works to existing open space area to the north of existing Griannan Fidh residential development.
- Provision of 354no. car parking spaces including basement parking, set down spaces for proposed childcare facility and repositioning of set down area on Atkinson Drive.
- Provision of 638no. bicycle parking spaces.
- Provision of 14no. motorcycle parking spaces.
- Communal bin storage and plant provided at basement level and additional plant provided at roof level.
- Provision of below ground wastewater storage tank (c. 500m<sup>3</sup>) and associated connection to the wastewater networks including ancillary above ground kiosk and appropriate landscaping on open space lands to the south of Griannan Fidh residential development

### **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 location of the site in an established urban area, with the majority of the site zoned for residential;
- (b) the policies and objectives of the Dun Laoghaire Rathdown Development Plan 2016-2022;
- (c) The Rebuilding Ireland Action Plan for Housing and Homelessness 2016;
- (d) the National Planning Framework which identifies the importance of compact growth;
- (e) the provisions of the Dublin Metropolitan Area Strategic Plan (MASP), part of the Eastern & Midland Regional Assembly RSES 2019-2031;
- (f) 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;
- (g) Urban Development and Building Heights Guidelines for Planning Authorities, prepared by the Department of Housing, Planning and Local Government in December 2018 and particularly Specific Planning Policy Requirement 3;
- (h) The Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of the Environment, Community and Local Government in December 2020;
- (i) 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;
- (j) The Planning System and Flood Risk Management (including the associated Technical Appendices), 2009;
- (k) The nature, scale and design of the proposed development and the availability in the area of a wide range of social, transport and water services infrastructure;
- (k) The pattern of existing and permitted development in the area;

(l) Section 37(b)(2) of the Planning and Development Act 2000, as amended, whereby the Board is not precluded from granting permission for a development which materially contravenes a Development Plan or a Local Area Plan;

(m) The submissions and observations received;

(n) The Chief Executive Report from the Planning Authority; and

(o) The report and recommendation of the inspector including the examination, analysis and evaluation undertaken in relation to appropriate assessment and environmental impact assessment.

### **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**

The Board completed an environmental impact assessment screening of the proposed development and considered the Environmental Impact Assessment Screening Report submitted by the applicant, which contains the information set out Schedule 7A to the Planning and Development Regulations 2001 (as amended), 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(b) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,



(b) The location of the site on lands that are zoned for 'Residential' and 'Open Space' under the provisions of the Dun Laoghaire-Rathdown County Development Plan 2016 – 2022, and the results of the strategic environmental assessment of the Dun Laoghaire Rathdown County Development Plan 2016 – 2022, undertaken in accordance with the SEA Directive (2001/42/EC),

(c) The existing uses on the site and pattern of development in surrounding area,

(d) The planning history relating to the site,

(e) The availability of mains water and wastewater services to serve the proposed development,

(f) 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)

(g) 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),

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

(i) 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 Construction Environmental Management Plan, the Construction & Demolition Waste Management Plan, the Operational Waste Management Plan, the Drainage Design Report and the Flood Risk Assessment,

The Board did not consider that the proposed development would 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 that the proposed development would constitute an acceptable quantum and density of development in this accessible urban location, would not seriously injure the residential or visual amenities of the area, would be acceptable in terms of urban design, height and quantum of development, would be acceptable in terms of

pedestrian safety and would provide an acceptable form of residential amenity for future occupants. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

The Board considered that, while a grant of permission for the proposed Strategic Housing Development would not materially contravene a zoning objective of the statutory plans for the area, a grant of permission would materially contravene Policy UD6: Building Height Strategy of the Dun Laoghaire Rathdown County Development Plan 2016-2022 and the related provisions of the Building Height Strategy as set out in Appendix 9 of Dun Laoghaire Rathdown County Development Plan 2016-2022.

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

In relation to section 37(2)(b) (i) of the Planning and Development Act 2000 (as amended):

The current application has been lodged under the Strategic Housing legislation and the development is strategic in nature and relates to matters of national importance (the delivery of housing). The proposal represents the regeneration of an important site within Stepside, and makes a contribution to the housing stock, of some 445 Build to Rent units, and therefore seeks to address a fundamental objective of the Housing Action Plan, and such addresses a matter of national importance, that of housing delivery.

In relation to section 37(2)(b) (iii) of the Planning and Development Act 2000 (as amended):

National Policy, Project Ireland 2040: National Planning Framework (NPF) seeks to deliver on compact urban growth. It is set out that general restrictions on building heights should be replaced by performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth. The NPF also seeks to prioritise the provision of new homes at locations that can support sustainable development and seeks to increase densities in settlements, through a range of measures. In relation regional planning guidelines for the area, the Eastern & Midland Regional Assembly – Regional Spatial & Economic Strategy 2019-2031

seeks to increase densities on appropriate sites within Dublin City and Suburbs. In relation to Section 28 Guidelines, the Urban Development and Building Height Guidelines (2018) which state that *inter alia* that building heights must be generally increased in appropriate urban locations, subject to the criteria as set out in Section 3.2 of the Guidelines. The proposal has been assessed against the criteria therein. The Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (updated December 2020) and the Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities (2009), support increased densities in appropriate locations and the proposal has been assessed in relation to same. The proposal has also been assessed against the relevant criteria in the Urban Design Manual, associated with the Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities (2009).

In relation to section 37(2)(b) (iv) of the Planning and Development Act 2000 (as amended):

The Board has previously granted permission for a development of 200 units with heights of up to 7 storeys at Lisieux Hall (a protected structure), Murphystown Road, Leopardstown, Dublin 18 (APB Ref 307415) on a site located approximately 300m east of this application site. The Board considered the proposal materially contravened the Development Plan in relation to height. As such, there is precedent for a material contravention of the height parameters as set out in the Development Plan, and for a greater height than prevailing within the wider area.

## 15.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement, such issues may be referred to An Bord Pleanála for determination.



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

2. The period during which the development hereby permitted may be carried out shall be five years from the date of this Order.

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

3. The development hereby permitted shall be for build to rent units which shall operate in accordance with the definition of Build-to-Rent developments as set out in the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (December 2020) and be used for long term rentals only. No portion of this development shall be used for short term lettings.

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

4. Prior to the commencement of development, the owner shall submit, for the written consent of the planning authority, details of a proposed covenant or legal agreement which confirms that the development hereby permitted shall remain owned and operated by an institutional entity for a minimum period of not less than 15 years and where no individual residential units shall be sold separately for that period. The period of 15 years shall be from the date of occupation of the first residential unit within the scheme.

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

5. Prior to expiration of the 15-year period referred to in the covenant, the owner shall submit for the written agreement of the planning authority, ownership details and management structures proposed for the continued operation of the entire development as a Build-to-Rent scheme. Any proposed amendment or deviation from the Build-to-Rent model as authorised in this permission shall be subject to a separate planning application.

**Reason:** In the interests of orderly development and clarity.

6. The following requirements in terms of traffic, transportation and mobility shall be incorporated, and where required revised drawings/reports showing

compliance with these requirements shall be submitted to and agreed in writing with the planning authority prior to commencement of development:

- (a) The roads and traffic arrangements serving the site, including pedestrian crossings, where required, and signage, shall be in accordance with the detailed requirements of the planning authority for such works and shall be carried out at the developer's expense.
- (b) Provision of a minimum of 5 no. car club spaces.
- (c) Provision of additional cycle parking in line with the provisions of Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities' (Updated December 2020), the final quantum of same to be agreed with the Planning Authority.
- (d) Provision of a minimum of 7 no. surface/drop off/pick up/visitor/crèche car parking spaces.
- (e) The materials used in any roads / footpaths provided by the developer shall comply with the detailed standards of the planning authority for such road works.
- (f) All works to public roads/footpaths shall be completed to the satisfaction of the planning authority.
- (g) The roads layout shall comply with the requirements of the Design Manual for Urban Roads and Streets, in particular carriageway widths and corner radii.
- (h) The developer shall carry out a Stage 3 Road Safety Audit of the constructed development on completion of the works and submit to the planning authority for approval and shall carry out and cover all costs of all agreed recommendations contained in the audit.
- (i) A detailed construction traffic management plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The plan shall include details of arrangements for routes for construction traffic, parking during the construction phase, the location of the compound for storage of plant and machinery and the location for storage of deliveries to the site. In this regard, an access route to the site

for construction traffic/vehicles shall not include the R113 Hillcrest Road which is subject to a three ton vehicular weight limit.

- (j) The applicant shall submit a Mobility Management Plan and details of car parking design, layout and management to the planning authority for agreement in writing prior to the commencement of development.

In default of agreement, the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

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

7. The area of soft landscaping above the proposed online foul storage tank to the south of Grianan Fidh shall be kept free of all structures aside from the kiosk as detailed in the submitted drawings and public access should be maintained at all times, save for the construction period and any temporary periods of repair or maintenance by Irish Water.

**Reason:** In the interests of recreational amenity.

8. The car parking facilities hereby permitted shall be reserved solely to serve the proposed development. The spaces shall not be utilised for any other purpose, including for use in association with any other uses of the development hereby permitted, unless the subject of a separate grant of planning permission.

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

9. A minimum of 10% of all car parking spaces shall be provided with functioning electric vehicle charging stations/points, and ducting shall be provided for all remaining car parking spaces facilitating the installation of electric vehicle charging points/stations at a later date. Where proposals relating to the installation of electric vehicle ducting and charging stations/points has not been submitted with the application, in accordance with the above noted requirements, such proposals shall be submitted and agreed in writing with the planning authority prior to the occupation of the development.



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

10. Proposals for the development name and dwelling 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 dwelling 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.

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

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

12. The areas of public open space and communal open spaces, as shown on the lodged plans shall be landscaped in accordance with the landscape scheme submitted to An Bord Pleanála with this application, unless otherwise agreed in writing with the planning authority. The landscape scheme shall be implemented fully in the first planting season following completion of the development, and any trees or shrubs which die or are removed within 3 years of planting shall be replaced in the first planting season thereafter. This work shall be completed before any of the dwellings are made available for occupation. Access to green roof areas shall be strictly prohibited unless for maintenance purposes.

**Reason:** In order to ensure the satisfactory development of the public and communal open space areas, and their continued use for this purpose.

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

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

14. Water supply and drainage arrangements, including wayleave and taking in charge arrangements, arrangements for the attenuation and disposal of surface water, and the arrangements for the disposal of foul water, shall comply with the requirements of the Irish Water and the Planning Authority for such works and services. In this regard, the use of the localised temporary detention basin is not permitted and the alternative provisions shall be made in the event of pump failure, in accordance with Irish Water's Code of Practice for Wastewater Infrastructure (July 2020, Rev 2).

**Reason:** In the interest of public health and to ensure a satisfactory standard of development.

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

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

16. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities for each apartment unit shall be submitted to, and agreed in writing with, the planning authority not later than 6 months from the date of commencement of the development. Thereafter, the waste shall be managed in accordance with the agreed plan.

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

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

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

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

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

19. The construction of the development shall be managed in accordance with a Final 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 of proposals as relates to soil importation and exportation to and from the site; details and location of proposed construction compounds, details of intended construction practice for the development, including noise management measures, details of arrangements for routes for construction traffic, parking during the construction phase, and off-site disposal of construction/demolition waste and/or by-products.

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

20. The site development and construction works shall be carried out in such a manner as to ensure that the adjoining roads are kept clear of debris, soil and other material, and cleaning works shall be carried on the adjoining public roads by the developer and at the developer's expense on a daily basis.

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

21. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be



submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the "Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects", published by the Department of the Environment, Heritage and Local Government in July 2006.

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

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

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

23. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Any relocation of utility infrastructure shall be agreed with the relevant utility provider. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

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

24. All items and areas for taking in charge shall be undertaken to a taking in charge standard. Prior to development the applicant shall submit construction details of all items to be taken in charge. No development shall take place until these items have been agreed.

**Reason:** To comply with the Councils taking in charge standards.

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

(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and

(b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

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 area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

26. 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.

27. 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 reinstatement of public roads which may be damaged by the transport of materials to the site, 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.

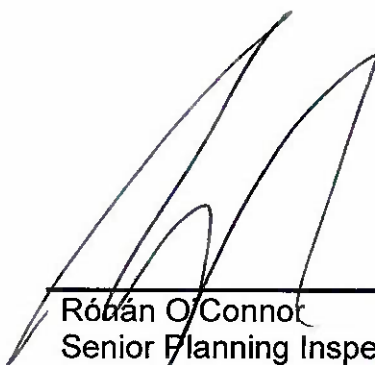
28. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the 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 for Dublin City Council 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.

29. The developer shall pay to the planning authority a financial contribution in respect of the extension of Luas Line B1 – Sandyford to Cherrywood in accordance with the terms of the Supplementary Development Contribution



Scheme, made by the planning authority under section 49 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme. Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

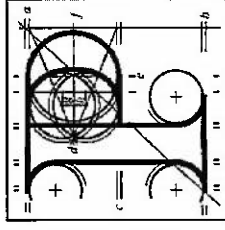


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Róán O'Conor  
Senior Planning Inspector

12<sup>th</sup> July 2021

# Appendix A: EIA Screening Form



An  
Bord  
Pleanála

## EIA - Screening Determination for Strategic Housing Development Applications

### A. CASE DETAILS

<b>An Bord Pleanála Case Reference</b>	ABP-309828-21
<b>Development Summary</b>	Construction of 445 No. Built to Rent residential units and a 514.9 sq. m. childcare facility on a c. 3.39 Ha site, together with all related ancillary development and services including a foul water/storm water storage tank of 500m <sup>3</sup> capacity, car parking, landscaping and site development works
<b>1. Has an AA screening report or NIS been submitted?</b>	Yes / No / N/A Yes
	No

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?		
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-Rathdown Development Plan 2016-2022.

B. EXAMINATION		
	Yes/ No/ Uncertain	Briefly describe the nature and extent and Mitigation Measures (where relevant)
1. Characteristics of proposed development (including demolition, construction, operation, or decommissioning)	Yes/ No/ Uncertain	<p>(having regard to the probability, magnitude (including population size affected), complexity, duration, frequency, intensity, and reversibility of impact)</p> <p>Mitigation measures –Where relevant specify features or measures proposed by the applicant to avoid or prevent a significant effect.</p>
Is this likely to result in significant effects on the environment? Yes/ No/ Uncertain		



1.1 Is the project significantly different in character or scale to the existing surrounding or environment?	No	The residential use and other uses proposed and the size and design of the proposed development would not be unusual in the context of this residential area.	No
1.2 Will construction, operation, decommissioning or demolition works cause physical changes to the locality (topography, land use, waterbodies)?	Yes	Such changes in land use and form are not considered to be out of character with the pattern of development in the surrounding city area.	No
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?	Yes	Construction materials will be typical of such urban development. Redevelopment of this brownfield site will not result in any significant loss of natural resources or local biodiversity.	No
1.4 Will the project involve the use, storage, transport, handling or production of substance which would be harmful to human health or the environment?	Yes	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 Environmental Management Plan will satisfactorily mitigate potential impacts. No operational impacts in this regard are anticipated.	No

<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>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 Environmental Management Plan will satisfactorily mitigate potential impacts.</p> <p>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>No</b></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>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 water and drainage services.</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. Management of the scheme in accordance with an agreed Management Plan will mitigate potential operational impacts. Lighting design to avoid overspill to adjoining lands</p>	<p><b>No</b></p>
<p><b>1.8 Will there be any risks to human health, for example due to water contamination or air pollution?</b></p>	<p><b>No</b></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. No significant operational impacts are anticipated.</p>	<p><b>No</b></p>
<p><b>1.9 Will there be any risk of major accidents that could affect human health or the environment?</b></p>	<p><b>No</b></p>	<p>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.</p>	<p><b>No</b></p>



<b>1.10 Will the project affect the social environment (population, employment)</b>	<b>Yes</b>	<b>No</b>
<b>1.11 Is the project part of a wider large scale change that could result in cumulative effects on the environment?</b>	<b>No</b>	<b>No</b>
<b>2. Location of proposed development</b>		
<b>2.1 Is the proposed development located on, in, adjoining or have the potential to impact on any of the following:</b>  1. European site (SAC/ SPA/ pSAC/ pSPA) 2. NHA/ pNHA	<b>No</b>	<b>No</b>
No conservation sites located on the site. An AA Screening Report accompanied the application which ruled out likely significant effects on any Natura 2000 sites.		

<p>3. Designated Nature Reserve</p> <p>4. Designated refuge for flora or fauna</p> <p>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</p>	<p>No</p>	<p>No such uses on the site and no impacts on such species are anticipated.</p>	<p>No</p>
<p>2.2 Could any protected, important or sensitive species of flora or fauna which use areas on or around the site, for example: for breeding, nesting, foraging, resting, over-wintering, or migration, be affected by the project?</p>	<p>No</p>	<p>There are no features in the vicinity of the site likely to be affected by the proposed development.</p>	<p>No</p>
<p>2.3 Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?</p>	<p>No</p>		
<p>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?</p>	<p>No</p>		<p>No</p>

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.	No
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.	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, schools etc) which could be affected by the project?	Yes	There is no existing sensitive land uses or substantial community uses which could be affected by the project.	No



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 developments have been identified in the vicinity which would give rise to significant cumulative environmental effects.	No
3.2 Transboundary Effects: Is the project likely to lead to transboundary effects?	No	No trans boundary considerations arise	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		

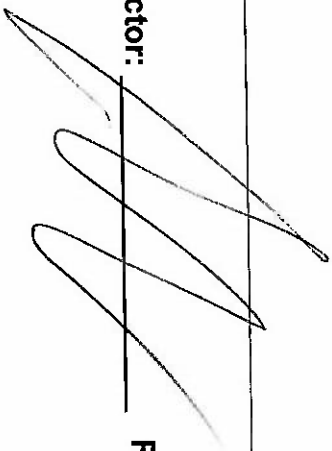
## D. MAIN REASONS AND CONSIDERATIONS

Having regard to: -

- (a) the nature and scale of the proposed development, which is below the threshold in respect of Class 10(iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- (b) the location of the site on lands zoned Objective A – “To protect and or improve residential amenity” and Objective F is – “To preserve and provide for open space with ancillary active recreational amenities” in the Dun Laoghaire Rathdown Development Plan, and the results of the Strategic Environmental Assessment of the plan,
- (c) The existing use on the site and pattern of development in surrounding area;
- (d) The availability of mains water and wastewater services to serve the proposed development,
- (e) 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)
- (f) 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),
- (f) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended), and
- (g) 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 Construction Environmental Management Plan, the Construction & Demolition Waste Management Plan, the Operational Waste Management Plan, the Drainage Design Report

and the Flood Risk Assessment, 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:



Ronan O'Connor

Date: 12/07/2021