



An
Bord
Pleanála

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

Inspector's Report ABP-310078-21

Strategic Housing Development

165 no. residential units (105 no. houses, 60 no. apartments), creche and associated site works.

Location

Cookstown and Powerscourt Demesne (Townlands), Cookstown Road, Enniskerry, Co. Wicklow. (www.cookstownroadshdplanning.com)

Planning Authority

Wicklow County Council

Applicant

Cairn Homes Properties Limited.

Prescribed Bodies

Irish Water
Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media
Inland Fisheries Ireland

Observer(s)

Aedamar O Loughlin and John Nolan

Aileen Bolger

Andrew Gleasure

Anita Tuesley

Anne Russell

Anthony and Margaret Cotter

Bob Caldwell

Brendan and Laura Foley

Brian O Flanagan

Carl and Julia Strickland

Carmel and Stuart Ruttle

Caroline & John O'Callaghan

Cathal and Rosaleen Magee

Catherine Murphy

Charabanc Housing Association Clg

Church of Ireland - The
Representative Church Body

Clodagh O Brien

Colm Nugent and Maeve Gallanagh

Dan Bolger

Dervla Cotter

Don O Leary

Elena Manson

Enniskerry Alliance

Enniskerry Demesne Management

G. Landseer

Gavin Barrett and Madeleine de
Bairéid

H. Fennell Landseer
Howard and Jacqueline Roberts
Jacqueline Stow
James and Mary Muddiman
James Sommerville
Jessica Ramsey
Joe Wilson and Liz McMahon
John and Caroline Hamilton
John O Connell and Katherine
Challacombe
Karina Halley
Lorna Kelly
Lyn and Aogan Foley
M. Broadbent
Malachy Quinn
Maoiliosa and Paul Kelly
Maria and Peter Towers
Mark & Penny Colley
Melanie Corrigan
Michael and Irene Keogh
Michael and Tracy O'Hara
Michael Halligan on behalf of David
and Ruth Whelehan
Nigel Pepper & Geraldine Leonard
and others
Orla Thornberry
Pat Kelly
Patricia and Mike Walker
Paul Miles

Peter Todd
Powerscourt Rectory
Ralph Hance
Robert Neill
Rory O'Connor
Rose Mary Craig
Simon Harris TD
Steven Matthews TD
The Board of Management of
Powerscourt National School
Tina Roche
Valerie Gannon
Zara Quinn

Date of Site Inspection

29th of June 2021.

Inspector

Karen Hamilton

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1.0 Introduction

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

2.0 Site Location and Description

- 2.1. The subject lands (c.6.57ha) are located on the south eastern side of Enniskerry, (c.1km from the village centre). The lands are situated to southern side of the L1020 (Cookstown Road) and to the east of the R760.
- 2.2. The lands are currently in agricultural use and are bounded to the north by existing residential development in Enniskerry Demesne (14 no. dwellings). The Powerscourt National School is to the west of the site. A number of one-off dwellings are located on in the vicinity, to the east and south. A woodland bounds the lands to the east and the Lovers Leap Lane runs along the Dargle River runs c.130m to the south of the site.
- 2.3. The site is situated on lands designated in an Area Action Plan 3 (AA3) of the Bray Municipal District Local Area Plan 2018. The site directly adjacent to the west forms part of this AAP 3 and has a current permission Reg Ref 19/871.

3.0 Proposed Strategic Housing Development

The proposed development would comprise of the construction of 165 no. dwellings, creche and associated ancillary infrastructure. The site requires a certain amount of reprofiling to accommodate the development and an area of public open space is proposed along the south of the site, adjoining the Lovers Leap Lane

Vehicular access is via the Cookstown Road, to the north of the site. Upgrade works along the Cookstown Road include a new footpath/ lighting along the southern edge of the Cookstown Road from the site to the Powerscourt National School entrance to the junction of the R760 along southern side of Cookstown Road and pedestrian crossing across Cookstown Road.

Surface water attenuation measures and underground attenuation systems as well as connection to water supply, and provision of foul drainage infrastructure (along the Cookstown Road to existing connection at junction with R760) and provision of underground local pumping station;

The proposal also includes marketing signage structures (3 no.) on the site for 3 no. years.

Key Parameters

Parameter	Site Proposal
Gross Site Area	c. 6.57ha
Units	165 no. units 105 no. 2 storey houses and 56 no. apartments/duplex apartments
Density	31.9 units per ha (uph)
Height	Up to 3 storeys for the duplex units.
Public Open Space	c. 0.93 ha, with pedestrian connections to the “Lovers Lane Leap” along the south.
Creche	c. 510m ² (including storage)
Car parking	313 no. spaces
Cycle Parking	150 no. spaces

Unit Mix

Units	Type	No	Percentage
Duplex (1 bed)	F/F1	4	2.4%
Duplex (2 & 3 bed)	A/B/C/D	56	17% (2 bed)
Dwelling (3 bed)	B/B1/B2	49	46.7% (3 bed)
Dwelling (4 bed)	A/D/E/E1	56	33.9%
Total		165	100

4.0 **Submission from the Chief Executive (CE) of Wicklow County Council**

4.1. A submission to the SHD application was received from the CE of Wicklow County Council on the 22nd of June 2021 and includes a summary of the development plan policy, relevant site history, summary of the submissions received, the opinion of the Elected Members, the interdepartmental reports and the planning assessment of the proposed development. The PA recommend a refusal as it is considered the proposal fails to meet criteria for the development of lands in Action Area 3 Cookstown, the development would materially contravene the zoning objectives for density and a childcare facility on Community and Education zoned lands and it would also represent a traffic hazard. The submission has been summarised below.

4.2. **Views of elected members**

Traffic/Road Infrastructure

- The local road infrastructure is not sufficient and there are concerns the proposal will lead to more congestion and have a negative impact on traffic movements and pedestrians.
- The proposal could exacerbate the flooding problem along Cookstown Road.

Public Infrastructure

- The site is not well served by public infrastructure.

Services/ Infrastructure

- Primary/ secondary schools are at capacity.

Scale of development

- The development is not in keeping with the local area and the 3 stories is too high.

Other

- The proposal is contrary to the LAP and not in keeping with the vision for the site.

4.3. Recommendation

While the CE report considers the development of these lands is acceptable in principle, the scheme as currently proposed is not acceptable for reasons outlined below:

1. The proposed development would materially contravene the objectives for these lands as set out in the Bray Municipal District Local Area Plan 2018 as the proposed scheme fails to meet the following criteria set out for the development of the lands within **Action Area 3 Cookstown**:
 - a) *A maximum of 105 housing units may be provided in this action area, with density not exceeding 10/ha on the lands zoned R10, and the remainder may be developed at a higher density but not exceeding 20/ha.*
 - b) *A minimum area of 0.4ha shall be provided for voluntary/sheltered housing, of a type to be agreed with the Local Authority, as part of any Part V obligations under the Wicklow Housing Strategy. Permission will not be considered for private housing until sufficient progress has been made on this element.*

To allow this development to proceed outside the parameters of the Action Area Plan would be contrary to the objectives of the Bray Municipal District Local Area Plan 2018 and would be contrary to proper planning and sustainable development.

2. The proposed development would materially **contravene the development-zoning objectives of the Bray Municipal District Local Area Plan 2018** because:
 - a) *The density of the proposed development exceeds the maximum permitted density on both the R10 and R20 residential zonings*
 - b) *The proposal includes for the provision of a commercial privately owned/operated childcare facility on lands zoned for Community and Education.*
3. The proposed development would result in a serious **traffic hazard** because it is considered that the applicant's have failed to demonstrate that the local road network serving the site is adequate or is to be upgraded to a sufficient

standard to cater for the volume of traffic that would be generated by the proposed development.

4.4. Planning Assessment

Core Strategy

- Under the Bray Municipal District Plan 2018-2024 the area for AA3 has an allocation of 105 residential units (c.22% of the housing stock for Enniskerry).
- The proposed development (in conjunction with approval under PRR19/871) would deliver 192 units (c.40.5% of the housing stock for the settlement).
- Taking the current extant permission in the settlement, the quantum would be in line with the future needs of the settlement.

Action Area 3 (AA3)- Cookstown

- The proposal would materially contravene the objectives for the AA3 as it is in excess of the 105 units allocation (87 no. above) and does not provide a minimum of 0.4ha for voluntary/ sheltered housing.

Zoning Objectives

- Residential: The proposal would deliver 165 no. units on c.5.17ha and would therefore exceed the permitted density and contravene the zoning objectives for the area.
- Open Space: The delivery of the public park would accord with the zoning objective.
- Community and Educational: There is uncertainty the provision of a privately owned creche on the CE lands would accord with the zoning objective. The childcare is required to serve the residential lands and should be provided on residential zoned lands. The CE lands should be retained for the school to expand.

Phasing

- There should be no occupation of units until the Public Park, crèche and necessary infrastructure and services are completed.
- A new phasing plan should be submitted if changing from the proposed scheme.

Roads and Traffic Safety

- The Traffic Impact Assessment (TIA) is not sufficient.
- The site is served by the L1020 which is a poorly aligned rural road and is inadequate in terms of drainage, public lighting, and public footpaths.
- The applicant has not demonstrated that the existing road network can be upgraded to cater for the volume of traffic likely to be generated by the proposal.
- The proposal for the new footpath along the southern side of the Cookstown Road fails to adequately consider the ground levels to the front of the school.

Internal Roads/Footpaths

- It is unclear if the proposed horizontal and vertical deflections incorporated into the design would comply with DMURS or if they would ensure the slow movement of traffic, in particular the main north-south spine road.
- The taking in charge map indicates some footpath and other infrastructure is not included, this is confusing.
- The boundary treatment in DRAG no. 106 Rev D, restricts pedestrian and cycle linkages into the adjoining permitted scheme to the west (PRR19/871).

Parking

- There is a lack of public infrastructure and the proposal will be car dependant.
- There is insufficient parking for creche and dual usage to serve the childcare and visitor parking for the residential use would be acceptable.
- If parking is not provided within the curtilage of a dwelling the space should be allocated specifically for that unit.
- Visitor spaces should be marked.
- Adequate electric charging points should be provided.

Design Quality.

- It is unclear if the design of the main spine road (north to south) would ensure self-enforcing speed limit of 30km/hr.
- The proposal should ensure permeability for lands to the west.
- Existing mature trees and hedgerows should be retained where possible, particularly along the roadside.

Design/ Visual Amenity

- The development should have regard to the traditional rural character of the settlement of Enniskerry.
- The use of external materials, including red roof tiles and red brick tiles is not considered appropriate for the area. The proposed materials during the pre-application stage (natural slate, textured render and natural stone) were more appropriate.
- The proposed development is over 60 units and therefore does not accord with Objective R6 of the Bray Municipal District Local Area Plan 2018 where a single housing estate shall be only 60 units or broken into smaller units after this.

Housing Mix/ Tenure

- All of the one-bedroom units are for the Part V and not available for the private market.
- No bungalows have been incorporated into the design in accordance with the requirements of Objective HD15.

Childcare

- The childcare complies with CDP Objective CD24.
- The location on CE zoned lands is not considered acceptable.
- Adequate parking should be provided to serve this facility.

Public Park

- The quantum and layout of public open space is considered acceptable.
- All public open space should be designed and landscaped to ensure they are useable.

Private Open Space

- The quantum is considered acceptable.
- Boundary treatment should ensure adequate levels of privacy.
- The communal areas for apartments and duplex should be designated for the residents.

Part V

- Part V should conform with the Quality Housing Guidelines.

Surface Water Drainage

- The minor modifications as recommended by the stormwater audit should be incorporated.

Wastewater

- It is noted the pumping station has been designed to accommodate future connections from neighbouring sites so as the existing pumping station serving the Enniskerry Demesne is decommissioned.

Public Lighting

- The public lighting should be designed in accordance with the Wicklow County Council Guidance.

4.5. Interdepartmental Reports

4.5.1. Transport, Water & Emergency Service: A number of issues have been raised as summarised below:

- Pedestrian Facilities: Details of the ground level difference in the footpath outside the national school, removal of steps and further details of crossings and footpaths in the proposal.
- Roads: It was requested the road was widened to 5.5m, the road is only 5m, design of internal road layout and materials for home zones.
- Road Safety Audit (RSA): RSA stage 2 for the construction drawings and RSA stage 3 for the improvements at Cookstown Road and within the proposed development.
- Traffic Assessment/ Traffic Impact Assessment: No assessment of some of the junctions on the approach to and within the heart of the village of Enniskerry are included and query the distribution of traffic from the proposed development.
- Public lighting: Additional drawings requested in relation to the design.

4.5.2. Water and Environmental Services: No objection subject to the inclusion of a stormwater audit and the incorporation of any recommended changes.

4.5.3. Housing and Corporate Estate: No objection to the Part V proposal subject to some alterations.

4.5.4. Water Section (Local Authority): No objection to the proposal.

4.6. **Suggested Conditions**

1. Phasing: Delivery of crèche after 75 no dwellings and no occupation of units before the public park and amenity walk is completed to the satisfaction of the PA.
2. Creche: Relocation of the creche onto residential lands by omitting Duplex Block A2 and retain the CE uses for community and educational uses.
3. Sheltered/ Voluntary Housing
4. Part V
5. Road Safety Audit: Stage 2 Road Safety Audit and Final Audit Report to be prepared in line with TII publications.
6. Roads/ Pedestrian Facilities: Final details of all internal roads, footpaths, home zones, upgrade works to Cookstown Road and footpath along the southern side of the Cookstown Road to the pedestrian crossing at the National School, to be agreed.
7. Roads/ Pedestrian Facilities: Compliance with the “Recommendations for Site Development Works for Housing Areas” (DELG 1998), specific planting along road margins, kerbed roads etc.
8. Public Lighting
9. Undergrounds service gables.
10. Sustainable Urban Drainage System (SUDS)
11. Open Space design and retention for residents
12. Boundary treatment.
13. External materials
14. Taking in charge details and as constructed drawings.
15. Management Company for Duplex Blocks/ House type F.

16. Estate Name and Numbering

17. Development Contributions

18. Security Bond

Conditions relating to the following are also recommended:

- Landscaping,
- Car parking and electric charging
- Water Services,
- Construction Management,
- Archaeology,
- Ecology/biodiversity.

5.0 Third Party Submissions

5.1. 68 no. submissions were received from third parties in relation to the proposed development, of these 4 no. are from prescribed bodies, as summarised below in Section 6.0. Third party submissions are mostly from residents' associations, residents from the vicinity and elected representatives from the area. A submission from a community organisation has multiple signatures and is accompanied by an observation by an engineering consultant on the traffic issues. A number of the submissions are submitted by or are accompanied by the planning consultant and/or legal representation. A submission was received from the Powers Court National School, located to the west of the site.

5.2. The elected member submissions are highlighted in the first instance. The issues raised throughout the other submissions are similar and have therefore been summarised into common themes thereafter.

5.3. Elected Members

5.3.1. Stephen Matthews TD

Design and Layout

- The straight spine road may encourage speeding.

- The dispersal of green spaces requires improvement.
- There is insufficient centrally located open space.
- It is unclear from the drawings how spaces will be accessed.
- The proposal should improve safer walking and cycling and meet the development plan objective for excellent layout.

Town Centre and Community facilities

- The proposal fails to show how the town centre and community facilities are linked.

Road Safety and permeability

- The issues with adequate sightlines was highlighted in the previous planning application.
- It is queried if there is adequate sightlines without the removal of trees or road engineering solutions.
- Pedestrian and cycling permeability between the adjoining permitted scheme should be considered.

Surface Water

- The adequacy of surface water attenuation is queried.
- There is a history of surface water accumulation on the road, close to the school.

Wastewater

- It should be confirmed if IW will take control of all aspects of the management and maintenance of the pump station.
- It should be confirmed if the mains network has capacity.

5.3.2. Simon Harris TD

Community & Education

- A proportion of the lands are zoned CE for primary education, to facilitate the expansion of Powerscourt National School.

- The additional lands for CE to accommodate the growth of Enniskerry where considered by the local councillors when approving the Wicklow County Development Plan and the Bray Municipal District LAP.

5.3.3. Residential.

- Objective HD 5 and HD13 must be adhered to in respect to any residential scheme.
- There is a previous agreement between Wicklow County Council and Charabanc to provide sheltered housing as part of the previous permitted scheme. There is concern this will not be included.
- The quantum of the proposal (165 no units), along with the permitted 27 no. units represent 41% of the proposed increase for the settlement.

5.4. Part V/ Sheltered/ Voluntary accommodation

- The Part V provision on 0.4 ha, as stated by the applicant, is not the same as that which is required under the AAP.
- The delivery of the voluntary/ sheltered housing objective is the responsibility of the applicant.
- The requirement to comply with the voluntary housing has been transferred from the adjoining applicant/ permitted development.
- The previous permission on the site (Reg Ref 14/1704) included an agreement between WCC and Charabanc for sheltered housing.
- The proposal does not include any clear agreement for meeting local housing needs.
- There is a shortage of social and affordable housing.

5.4.1. Residential Amenity

- The 3 storey duplex apartments will have a serious negative impact on the amenity of a resident directly east of the site.

5.4.2. Sunlight/ Daylight

- The property to the east is noted as a “sensitive receptor” in the sunlight/ daylight analysis, although no regard has been given to the design and layout.

- The use of trees along the boundary as mitigation is not acceptable as the trees are porous and have gaps and may be removed in future.
- The proposed scheme at winter % at ref points 1, 2, 3 and 4 are less than 80% of the existing value and therefore do not comply with the BRE guidelines.

5.4.3. Visual Amenity

- The landscape around the site is categorised under the Glencree/ Glencullen Area of Outstanding and there are several landscape designations in the vicinity.
- The scheme is inconsistent with the area of outstanding beauty.
- The inclusion of 3 storey duplex units is a material contravention of the CDP/AAP and out of character with the area of outstanding beauty.
- The location of the 3 storey units is inappropriate at a rural location and is not in keeping with the rural location.
- The proposal will obstruct a protected view, towards Sugarloaf.
- The Impact on Enniskerry Demesne will be significant.

5.4.4. Infrastructure

- There are not sufficient local facilities to support the development
- The development plan does not address the development plan requirements for community related activities.

5.4.5. Design and Layout

- The proposal does not respond well to the site.
- Many of the dwellings do not get the benefit of public open space.
- The home zones are just cul-de-sacs.
- The three apartment blocks are not at a scale to the village setting.
- The apartments will overlook the school premises.
- The proposal does not comply with CD1 of the CDP (centrally located play areas).

- The duplex design is contrary to Policy R6.
- The design and layout do not comply with the 12 criteria in the urban design manual, does not include successful character areas, reduces visual and pedestrian connections and lacks a distinct lack of sense of place.

5.4.6. Biodiversity/ preservation of the natural character

- The proposal would lead to the loss of hedgerows and trees along Lovers Leap and Dargle Valley.
- The increase in anthropogenic activity will have a negative impact on the adjoining p NHA to the south of the site.
- The increase use of Lovers leap could lead to antisocial behaviour and littering in this area of outstanding beauty.
- The Bat Survey notes considerable activity in the area and the removal of 10 potential bat roosts any adverse effect is a disturbance under Article 12 of the Habitats Directive.
- The bat assessment appears to be based on trees surveys not on the planning file i.e., “Tree Survey Report 2017” and “Baseline Tree Survey Report (2019)” and drawing “D1-TCP-Cookstown- 08.19.pdf”. This information should be available for the public.
- The bat survey is not in keeping with the required guidelines and the methodology for surveys is not clear.

5.4.7. Community & Education

- The CE lands are designated for the expansion of the school.
- The school is already at capacity and the zoned lands are required for its expansion.

5.4.8. Density

- Circular Letter NRUP 02/2021 addresses the issues of densities in towns and villages and notes it is necessary to respond to the character and scale of the town or village.

- The proposal is overdevelopment of the site and the proposed density is out of character with the prevailing and permitted densities in the area.
- The site is a transitional zone between the village and the rural countryside.
- There is a permission on the adjoining site for 27 houses, therefore the proposal should not exceed 78 dwellings to comply with the density standards for R10 and R20 lands.
- The proposal is not in compliance with Objective HD5 and HD13.
- The prevailing character of the area is generally 2.15 uph for the area and the Scalaheen permission is between 5 to 6 uph.
- The proposal should have regard to the S28 guidelines, and the circular dated 21st of April 2021.

5.4.9. Traffic & Transport

- An additional 350 cars will place an unnecessary burden on the existing road network.
- The conversion to a one-way system will increase the speeds along the road.
- The access road is a small, dangerous country road with a very steep gradient.
- There are no alternative public transport options, with long travel times and low frequency services.
- Cookstown Road cannot accommodate the increase and levels of traffic.
- The traffic would increase the dangers on the crossings for schools' children
- The road is not large enough to accommodate two-way traffic.
- The traffic survey was carried out over 2 years and is now out of date as the Powerscourt Distillery is now open.
- The proposed development will be reliant on the car.
- School children will not be able to walk home because of the number of cars.

- There has been no assessment of the carbon emissions, but the development is car dependant, and the proposal does not comply with the National Smarter Travel Policy
- There is no connection between the traffic assessment and the ongoing congestion in the Village and the surrounding road network.
- The internal layout is not DMURS compliant.

5.4.10. Enniskerry

- Under the RSES Enniskerry is not a self -sustaining town or identified for strategic development.
- Insensitive development will reduce the appeal of Enniskerry for a tourism base and therefore go against the objectives of the CDP and LAP.

5.4.11. Water and Wastewater

- IW preconnection enquiry notes the potential impacts on the local potable water are that there will be a reduction to the public mains.
- The proposal should be refused as it is premature.

5.4.12. Flooding

- There is flooding on the road to the west of the Summerhill Hotel and at Pine Heights.
- There is serious flooding along the road, particularly during heavy rainfall.

5.4.13. Environmental Impact Assessment (EIA)

- The proposal is a breach of the EIA directive as the public have not been given early and effective opportunities to participate in the environmental decision-making procedures.
- It is required that the Board undertake a screening determination rather than accepting the applicants EIAR.
- The EIAR does not have sufficient information contained within to undertake a reasoned conclusion of the significant likely effects.

5.4.14. Strategic Environmental Assessment (SEA)

- The Wicklow County Development Plan 2016-2022 and variations included an SEA statement, and the Board cannot grant permission for a development which is a material contravention of the development plan.

5.4.15. Area Action Plan 3

- The AA3 plan is not valid as a decision for an LAP is a reserved function and therefore the CE has no competence to adopt the plan.
- The public was not involved in the decision-making process of the plan.
- The plan was not subject to AA or SEA screening or assessment.

5.4.16. Material Contravention

A legal opinion, relating to the zoning on the lands and a counter argument has been submitted where the applicant's legal opinion is not considered acceptable. In this regard the submission emphasis the Highlands Case, considerable doubt over the zoning under Section 9 (6) (b) of the 2016 Act. This issue is also pending in the *O' Donnell case*.

- The density qualifications of the R10 and R20 lands are integral to the zoning objective.
- The maximum density for both zonings has been exceeded and the development contravenes the zoning objective.
- The excessive overdevelopment and substandard planning standards mean the proposal cannot be justified as a contravention.
- The proposed development contravenes the CDP core strategy, in that combined with other developments it is likely to lead to a population growth in excess of the target.
- The scale of development can not be the sole reason for "strategic or national" importance ([2021] IEHC 303).
- Enniskerry Village is not strategically or nationally important location for large scale housing.
- The site is a peripheral and/or less accessible location.

- The Sustainable Residential Development Guidelines in Urban Areas (2009) categorise the site as “an edge of centre site” and accordingly a range of 20-35 dwellings per hectare should be applied.
- The high court ruling for DCC North Lotts and Grand Canal Planning Scheme state that the Board cannot materially contravene a planning scheme under the SHD legislative provisions.
- A Material Contravention of Objective R6 has been omitted incorrectly.
- The applicant has misinterpreted the 2009 Guidelines on Sustainable Residential in Urban Areas.
- SPPR 4 of the 2018 Urban Height Guidelines cannot be used as a reason for overriding the plan in relation to a material contravention of the density.
- The applicant does not provide clarity on the decision to materially contravene for reasons relating to the voluntary/sheltered housing).

6.0 Prescribed Bodies

6.1. Irish Water

A confirmation of feasibility has been issued for 165 no. residential units subject to the following:

In respect to Wastewater: The connection to the network is feasible and subject to a connection agreement with IW that the existing Pumping station, which is currently outside of the applicant’s redline boundary, will be decommissioned and a new pumping station will be constructed on the applicant’s land. The delivery of the pump station will be funded by the developer.

In respect to Water: A Statement of Design Acceptance has been issued.

6.2. Inland Fisheries Ireland (IFI)

The submission from IFI has raised issues relating to the surface water design, works required to level the site, the discharge of foul water and the overall impact on the Glencullen/ Coosktown River. The issues are detailed below:

- Dargle River: The proposal is adjacent to the Glencullen/ Cookstown River. The Dargle and its tributaries support Sea Trout and Atlantic Salmon.
- Surface Water: There appears to be an over reliance on “hard” engineering in the collection and management of surface water. Reference is provided to the IFI guidelines on Planning for Watercourses in the Urban Environment.
- Groundworks: There is a considerable amount of variation in the ground levels and the proposal will require amendments to the current ground levels. The extent of sub-soil and topsoil stripping should be minimised to reduce the rate and volume of run-off during construction and should be a condition of any permission.
- Construction: A Construction Environmental Management Plan (CEMP) should identify potential impacts, mitigation measure, ensure compliance with environmental legislation and include measures to prevent and control the introduction of pollutants and deleterious matter to surface water.
- Foul Water: The infrastructure should be at capacity to cope with increased demand. There are no measures in place to record the frequency, volume or quality of discharge from the overflow of the Enniskerry Wastewater Treatment Plant.

6.3. Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media

Two submissions were received from two separate departments in Development Applications Unit, relating to Nature Conservation and Archaeology. Each submission has been summarised separately below.

Nature Conservation

- Appropriate Assessment: The screening report identifies the Knocksink Wood SAC 780m to the north-west and the Ballyman Glen SAC 1.5km to the north. Both sites contain a priority habitat (Petrifying springs with tufa formation) and Ballyman Glen SAC includes Alkaline Fens, both are groundwater dependant habitats. The proposed development and these European Sites lie in the same gravel aquifer (locally important gravel aquifer by Geological Survey of Ireland). The screening report does not assess if there are hydrological pathways from the propsoed site to the European Sites. If the Board, consider

such pathways exist or if the proposed development lies within the groundwater catchment of these sites then it is advised the likely significant effects resulting from hydrological impacts must be assessed.

- Environmental Impact Assessment Report (EIAR): The loss of 400m of higher significant hedgerow and treeline habitat will result in the loss of foraging for bat species and nesting habitat for the bird species. Chapter 4 of the EIAR states that landscape planting of native and non-native species will occur. The Department notes the planting scheme includes non-native planting and there is no indication of length, this is not adequate to mitigate for the loss of higher significance hedgerow. The landscaping scheme should be amended to provide for native, like-for like hedgerow (c.400m).

Archaeology

- The Archaeological Impact Assessment (AIA) identified six distinct areas of archaeology. The National Monuments Service concurs with the findings and recommendations in this report. All archaeological features should be excavated by hand in advance of site preparation by a suitably qualified archaeologist under licence and recorded. All topsoil will be monitored, and a final report furnished to the National Monuments Service.

7.0 Planning History

Subject Lands

ABP PL27.246401 (Reg. Ref. 14/1704)

Grant permission for 26 no. dwelling units on a site of c. 2.75 hectares.

Adjoining Site

Reg. Ref. 19/871

Permission granted for 27 no. dwellings on lands to the immediate west of the site also within the Action Area Plan 3 boundary. Permission was granted for access for access off the R760.

8.0 Section 5 Pre-Application Consultation

- 8.1. A pre application consultation took place via Microsoft teams on the 09th of July 2020 and following consideration of the issues raised during the consultation process, and having regard to the opinion of the planning authority, An Bord Pleanála issued an opinion that the documentation submitted required further consideration and amendment to constitute a reasonable basis for an application for strategic housing development to An Bord Pleanála as summarised below:

Vehicular/Cyclist/Pedestrian Movements

Further consideration of movement (pedestrian, cyclist and vehicular) within and through the development site, and to Enniskerry, and in particular the need for additional/upgraded pedestrian links, and how pedestrian movements will be facilitated in a safe manner across the Cookstown Road, as well as the potential need for road widening to facilitate the development.

Internally, further consideration of the provisions of the Design Manual for Urban Roads and Streets (DMURS) is required, and how the proposed layout and urban design response, including the arrangement of parking spaces, will contribute to the creation of attractive and safe streetscapes. Consideration should be given to the ease of pedestrian movements through the site, in particularly at key crossing points. Connections and permeability to the adjoining to the west and to the public park to the south should also be detailed.

Particular regard should be had to the comments contained within the Engineer's Report dated 14/04/2020, and to comments contained with the Transport Report dated 01/05/2020, as submitted with the Planning Authority's Opinion.

Further consideration of these issues may require amendment to the documents and/or design proposals submitted.

Interface with the Cookstown Road

The prospective applicant should provide further justification and/or detail in relation to the proposed interface with the Cookstown Road, having regard to the apparent level differences from the road to the site, and the potential need

for retaining walls. The applicant should provide detailed elevations/cross-sections/photomontages and CGI's showing this interface.

Further consideration of this issue may require an amendment to the documents and/or design proposals submitted.

8.2. Furthermore, the prospective applicant was advised that the following **specific information** should be submitted with any application for permission:

1. Additional details and/or revised proposals in relation to site services, having regard to comments contained within the Engineer's Report dated 14/02/2020, as submitted with the Planning Authority's Opinion, as relates to surface and foul water proposals.
2. A report that addresses issues of residential amenity (both existing residents of nearby development and future occupants), specifically with regards to daylight/sunlight analysis, overlooking, overshadowing, overbearing and noise. The report shall include full and complete drawings including levels and cross-sections showing the relationship between the proposed development and nearby residential development.
3. Additional CGIs/visualisations/3D modelling.
4. A report that specifically addresses the proposed materials and finishes of buildings, landscaped areas and any screening/boundary treatment. Particular regard should be had to the requirement to provide high quality and sustainable finishes and details which seek to create a distinct character for the development
5. A plan of the proposed open space within the site clearly delineating public, communal and private spaces.
6. Waste Management Details.
7. Site Specific Construction and Demolition Waste Management Plan.

8.3. **Applicant's Statement**

The applicant submitted a Statement of Response to the preapplication consultation and also the Architectural Design Statement includes an architectural response to the opinion as summarised below:

1. Pedestrian, Cyclist and Vehicular Movement

- The proposal now includes a pedestrian path and lighting between the subject lands and the existing pedestrian road crossing located at the Primary School.
- Additional lighting is proposed between the school and the R760 to the west.
- A lighting plan is included.
- A pedestrian path is included on the inside of the trees and hedgerows to retain the ecology.
- An agreement has been undertaken with Wicklow County Council and a pedestrian crossing is to be provided to tie into the existing footpath on the northern side of the Cookstown Road.
- The proposal is DMURS compliant.

2. Interface with Cookstown Road

The proposal includes a strong urban edge.

- The existing trees and hedgerows have been retained along the Cookstown Road with the duplex units raised with pedestrian access directly off the main road. An area of sloped open space along the front of the duplex units provides a buffer.
- The creche design has been improved with a better relationship between the school site. The landscaped area to the front slopes down towards the road.

In relation to the specific information the following has been submitted:

1. Foul and Surface Water proposals.
2. Residential Amenity Report
 - Daylight/ Sunlight Analysis (including overshadowing)
 - Overlooking/ Overbearing consideration within the design
 - Nosie report.
 - Air Quality assessment
3. Additional CGIs/ Visualisations
4. Materials Report
5. Open Space delineation and maps.

6. Waste Management Details

7. Site Specific Construction and Demolition Waste Management Plan

9.0 Relevant Planning Policy

9.1. National Planning Framework (NPF)

A number of key National Planning Policy (NPO) objectives are noted as follows:

- NPO 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”.
- NPO 35 seeks “to increase residential density in settlements, through a range of measures including restrictions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights”.
- NPO 13 provides that “in urban areas, planning and related standards, including, in particular, height and car parking will be based on performance criteria that seek to achieve well-designed high-quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected”.

9.2. Eastern & Midland Regional Assembly- Regional Spatial & Economic Strategy (EMRA-RSES)

- Enniskerry is not specifically detailed in this regional document.

9.3. Section 28 Ministerial Guidelines

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

- The Planning System and Flood Risk Management' including the associated Technical Appendices.
- Childcare Facilities – Guidelines for Planning Authorities.
- Urban Development and Building Height, Guidelines for Planning Authorities

9.4. Wicklow County Development Plan 2016-2022

Density

- Objective HD5: In order to make best use of land resources and services, unless there are cogent reasons to the contrary, new residential development shall be expected to aim for the highest density indicated for the lands. The Council reserves the right to refuse permission for any development that is not consistent with this principle.

Existing Residential Areas

- Objective HD10: In existing residential areas, infill development shall generally be at a density that respects the established character of the area in which it is located, subject to the protection of the residential amenity of adjoining properties. However, where previously unserved, low density housing areas become served by mains water services, consideration will be given to densities above the prevailing density, subject to adherence to normal siting and design criteria.

Unit Types / Sizes / Locations

- Objective HD13 : Apartments generally will only be permitted within the designated centres in settlements (i.e. designated town, village or neighbourhood centres), on mixed use designated lands (that are suitable for residential uses as part of the mix component) or within 10 minutes walking distance of a train or light rail station.

Housing Formats

- Objective HD17: The maximum size of any single 'housing estate' shall be 200 units and developments that include more than 200 units should be broken into a number of smaller 'estates', which shall be differentiated from each other by the use of materially different design themes.

9.5. Bray Municipal District Local Area Plan 2018- 2024

The Enniskerry settlement plan was incorporated into the Bray plan in 2018 and is read in conjunction with the Wicklow County Development Plan 2016-2022.

The subject lands are zoned for a mix including: R10 New Residential, R20 New Residential Rural Fringe, OS1 Open Space and CE Community and Education.

R20: New Residential

- Objective: “To protect, provide and improve residential amenities at a density up to 20 units/ha.”
- Description: “To facilitate for the provision of high quality new residential developments at appropriate densities with excellent layout and design, well linked to the town centre and community facilities. To provide an appropriate mix of house sizes, types and tenures in order to meet household needs and to promote balanced communities”.

R10: New Residential Rural Fringe

- Objective: “To protect, provide and improve residential amenities at a lower density not exceeding 10 units/ha.”
- Description: “To facilitate for the provision of high quality new residential environments with excellent layout and design, reflecting the low-medium density character of the surrounding area”.

OS1: Open Space

- Objective: “To protect and enhance existing and provide for recreational open space”.
- Description: “To facilitate the further development and improvement of existing parks and casual play areas, to facilitate opportunities for the development of new high quality amenity open areas and to restrict developments / activities (such as the use or development of such lands for formal sports grounds for organisations that are not available for a broad range of the public) that would reduce the opportunities for use by the wider public.”

CE: Community & Education:

- Objective: “To provide for civic, community and educational facilities”.
- Description: “To facilitate the development of necessary community, health, religious, educational, social and civic infrastructure.”
- Uses: generally appropriate for community and educational zoned land include community, educational and institutional uses include burial grounds, places of worship, schools, training facilities, community hall, nursing homes, health related developments, sports and recreational facilities, utility installations and ancillary developments for community, educational and institutional uses in accordance with the CDP.

Enniskerry

- “Small Growth Town” (Level 5)
- The plan aims to consolidate the existing built pattern by maximising large sites close to the settlement core
- Table 2.7- Housing stock growth targets up to 2025 is 1,112 by 2025 for Enniskerry
- Table 3.2- AA3- Zoning R20- Potential No. of Units 105

Chapter 3 deals with residential development with Policy R1 requiring all housing development accord with County Plan requirements. Enniskerry specific housing objectives are R6 and R7 which state that maximum size of any single housing estate should be 60 units and that a full range of unit sizes including 1- and 2-bedroom units shall be provided in all new housing areas with no more than 50% of the units in any development having more than 3 bedrooms or 125m² of floor area.

Area Action Plan 3 (AAS): Cookstown

The site comprises approximately half of the Area Action Plan 3 (AA3) area.

This Action Area Plan is located south of the town centre, in the townland of Cookstown.

This action area plan measures c. 9.4ha.

This action area plan shall be developed as a residential, open space and community space in accordance with the following criteria:

- A maximum of 105 housing units may be provided in this action area, with density not exceeding 10/ha on the lands zoned R10, and the remainder may be developed at a higher density but not exceeding 20/ha.
- A minimum area of 0.4ha shall be provided for voluntary / sheltered housing, of a type to be agreed with the Local Authority, as part of any Part V obligations under the Wicklow Housing Strategy. Permission will not be considered for private housing until sufficient progress has been made on this element.
- Access to the site shall be from local road LP-1020.
- A public park of a minimum of 2ha shall be established along the full southern and western boundaries of the action area, which shall comprise an amenity walk area along the existing tree lined field boundaries connecting through the development to regional road R760 (Enniskerry – Kilmacanogue) and to the existing pedestrian route along the Dargle. In light of the provision of such an amenity space, the incidental open space required to be interspersed throughout the residential area may be reduced to 7.5% of the total zoned residential area.
- Any development shall be so designed to maintain maximum views of the Sugarloaf from Cookstown Road.

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

The applicant has submitted a Planning Report and Statement of Consistency which indicates that the proposal is consistent with the relevant National, regional and local plan policy.

Appendix 3 of the Statement of Consistency includes an Opinion from Eamon Galligan SC to state that the contravention of density standards does not contravene the land use zoning objective and therefore the proposal can be addressed within the provisions of Section 9(6) of the Act as per Section 37 (2) (b) of the Act.

9.7. Designated Sites.

European Sites

The site is located:

- c. 0.3km to the south of Knocksink Wood SAC (site code 000725),
- c. 1.2km to the south of Ballyman Glen SAC (site code 000713),
- c.3.5km to the east of the Wicklow Mountains SAC (site code 002122),
- c. 4.2km to the east of the Wicklow Mountains SPA (site code 004040),
- c. 4.8km to the west of Bray Head SAC (site code 000714),
- c. 6.4km to the north of Glen of Downs SAC (000719).

Proposed Natural Heritage Areas (p NHA)

The site is located:

- c. 0.4km to the north east of Powerscourt Woodland p NHA, also connected to the Glenree Valley p NHA and the Powerscourt Waterfall p NHA
- c. 0.2km to the north west Dargle River p NHA
- c.1.2km to the north of the Great Sugarloaf p NHA
- c. 0.9km to the south east of the Knocksnick Wood p NHA
- c. 1.5km to the south of the Ballyman Glen p NHA

Nature Reserve

The site is located within the vicinity of the Knocksink Wood Nature Reserve and the Glen of the Downs Nature Reserve.

10.0 Assessment

10.1. Having considered all of the documentation on file, the PA's Chief Executive Report, the submission from prescribed bodies and third-party submissions, I consider that the planning issues arising from the proposed SHD development can be addressed under the following headings:

- Principle of Development/ Land use Zoning
- Quantum of Development/ Density and Material Contravention
- Action Area Plan 3 (AA3) and Material Contravention for voluntary/sheltered housing
- Design and Layout and Material Contravention Material Contravention of Objective H6
- Quality and Amenity of Residential Development
- Impact on Residential Amenity
- Impact on Powerscourt National School
- Overview of Material Contravention Issues
- Chief Executive (CE) Report

Principle of Development/ Land Use Zoning

10.2. Introduction

10.2.1. The site is located to the south east of the settlement of Enniskerry. The site is currently in agricultural use and is accessed from a local road (L1020) which radiates east from the R117. This local road also provides access to the Powerscourt National School, to the west of the site, Summerhill House and a small housing estate, Enniskerry Demesne. Further east along the road the lands are rural in nature with one-off housing located along the side of the road. Access onto the N11 is possible at the end of the L1020.

10.2.2. The site forms part of lands designated for the growth of the Village and part of an Action Area Plan (AA3) which is 9.4 ha in size. Permission has been granted for residential development on the portion of the lands to the west of the site (Reg Ref

19/871) for 27 no. dwellings which have access from the R760 along the west. The subject site is made up of four different land use zonings as illustrated in Map 3 of the Bray Municipal District Local Area Plan, 2018. These include two residential zonings (R10 and R20), a small portion of Community & Education (CE) beside the Powerscourt National School and an Open Space (OS1) designation along the south of the site. The principle of development is raised in a significant number of third-party submissions which state (i) the location of the creche on the CE zoned lands is not permissible and (ii) the proposal contravenes the land use objectives for the residential zoned lands which include specific density requirements. The validity of accepting the proposal under the SHD legislation has been raised. Recent legal cases in relation to non-compliance with land use zonings such as the Redmond and Highlands judgement are referenced in the submissions, with one submission being accompanied by legal opinion re. zoning objective compliance.

- 10.2.3. The CE's opinion also raised similar concerns and considers the increased density on the residential zoned lands and the location of the crèche on the CE lands to both represent a material contravention of the zoning objectives. A recommendation for refusal in relation to the zoning is stated below:

The proposed development would materially contravene the development-zoning objectives of the Bray Municipal District Local Area Plan 2018 because:

- a) The density of the proposed development exceeds the maximum permitted density on both the R10 and R20 residential zonings,*

10.3. Development Objective/Land use

- 10.3.1. The Board will note Section 9 (6) (b) of the Planning and Development (Housing) and Residential Tenancies Act 2016 states that:

“The Board shall not grant permission under paragraph (a) where the proposed development, or a part of it, contravenes materially the development plan or local area plan relating to the area concerned, in relation to the zoning of the land.”

- 10.3.2. The application is accompanied by a legal opinion with reference to legality of the proposed development, firstly relating to compliance with the residential zoning and

the potential for a material contravention and secondly the location of the creche on CE zoned lands and the potential for material contravention of the CE zoning.

10.3.3. The appropriateness of accepting the application under Section 9, in my opinion, in relation to the residential development, relates to the distinguishment between the “zoning of the land” and the “objective” for development under this zoning. Although no specific definitions of either “zoning of land” or “objective” are listed in the Planning and Development Act, 2000, as amended, (PDA 2000) there are many references to both throughout the Act. The text clearly provides a distinguishment between a development objective and the zoning for land. The development objectives in a plan do not solely relate to land use zonings. An example of this can be seen from Schedule 5 which includes a list of the reasons for the refusal of permission which exclude compensation, including where;

“The development would contravene materially a development objective indicated in the development plan for the zoning of land for the use solely or primarily of particular areas for particular purposes (whether residential, commercial, industrial, agricultural, recreational, as open space or otherwise or a mixture of such uses)”

10.3.4. Other references in this Schedule include development objectives associated with the protection of the built and natural heritage. Section 10 (2) (a) requires a development plan to include objectives for “the zoning of land”. It is clear by these references in the Act, the intention for the development objective is separate from the zoning of the land, albeit interlinked to ensure proper planning and sustainable development.

10.4. Residential

10.4.1. The land use zoning relating to the majority of the lands are for New Residential (R20) and a small portion along the west of the site designated for New Residential Rural Fringe (R10). Chpt 11 of the LAP lists six separate residential zoned lands types, each with separate objectives and description for development, the two relevant to this applicable (R20 and R10) are detailed below.

Zoning	Objective	Description
R20: New residential	To protect, provide and improve residential amenities at a density up to 20 units/ha	To facilitate for the provision of high quality, high density new residential developments with excellent layout and design, well linked to the town centre and community facilities. To provide an appropriate mix of house sizes, types and tenures in order to meet household needs and to promote balanced communities.
R10: New Residential Rural Fringe	To protect, provide and improve residential amenities at a lower density not exceeding 10units/ha	To facilitate for the provision of high quality new residential environments with excellent layout and design, reflecting the low-medium density character of the surrounding area.

- 10.4.2. The density proposed is 31.9 units per ha (nett excluding the CE zoned lands and the OS1 zoned lands) and 25.7 units per ha gross (based on a site of c.6.27 hectares, and c. 5.17ha respectively). The zoning in both instances is to provide for New Residential (with R10, relating to the Rural Fringe). The objectives for these land use zonings, listed in the subsequent column, restrict the density on the lands to 20 uph (R20) and to 10 uph (R10) on respective lands.
- 10.4.3. The third parties and the PA consider the exceedance of the density on these lands to represent a material contravention of the land use zoning and therefore the proposal cannot be considered by the Board and does not meet the terms of Section 9 (6) (b) of the Act, as amended. The principle of the residential use of the lands (R120 or R10) is not raised as an issue by the PA, it is only compliance with the density element of the Objective that is at question.
- 10.4.4. Appendix 3 of the applicant's Planning Report and Statement of Consistency includes a legal opinion from Eamonn Galligan Senior Counsel with reference provided to both Redmond and Highlands legal cases, and the PDA 2000. Mr Galligan, SC does not consider the density requirements is a matter which relates to the zoning objective for the purposes of Section 10 (2) of the PDA 2000.
- 10.4.5. The Board will note the land use 'zoning' on the site is Residential. It is my opinion that a member of the public would reasonably expect a proposed development on these lands to include residential development in the form of a multi-unit residential

scheme, in particular where the description for R20 for example reads ‘*To facilitate for the provision of high quality, high density new residential developments....*’. As stated above, I consider the specific density related development objective for zoned lands, separate to the intended use of the land referred to in the “zoning of land” as per Section 9 (6) (b). I would also draw to the Board’s attention the description relating to the Zoning, as well as the lists provided in Chpt 11 which outline a range of residential types of development as uses generally appropriate on these residential zoned lands.

10.4.6. Having considered the submissions of the Chief Executive, third parties and the applicant, I am satisfied that with respect to section 9(b)(b), compliance with the ‘*zoning of the land for use for particular purposes.*’ was intended to relate to the use/purposes envisaged for the lands and as provided for in terms of ‘permitted uses’ listed for that zoning in the written statement of the Development Plan, rather than relating to specific and detailed objectives relating to the zoned lands. I consider the intended residential development would not contravene materially the LAP in relation to the zoning of the land, rather it is my opinion that the contravention of density relates to the development objective. A Statement of Material Contravention in respect of density has been submitted with the application and this issue is addressed separately in detail below.

10.5. Community & Education (CE)

10.5.1. The creche is located on lands fronting onto the Cookstown Road, adjoining the Powerscourt National School. The lands on which the creche is located are zoned Community & Education (CE). The details from Chpt 11 of the LAP are noted below.

Zoning	Objective	Description
CE: Community & Education	To provide for civic, community and educational facilities.	To facilitate the development of necessary community, health, religious, educational, social and civic infrastructure.

10.5.2. Third party submissions, including the Powerscourt National School, consider the CE zoned lands are intended for and should be set aside for the expansion of the existing national school. The PA raised concern in relation to the private ownership

and operation of the creche facility and recommend a refusal of permission as stated below:

The proposed development would materially contravene the development zoning objectives of the Bray Municipal District Local Area Plan 2018 because:

b) The proposal includes for the provision of a commercial privately owned/operated childcare facility on lands zoned for Community and Education,

10.5.3. As stated above, Chp 11 of the LAP includes a description for the appropriate development on zoned lands. Childcare is only specifically listed under the zoning for residential areas. Uses listed for CE lands include *“burial grounds, places of worship, schools, training facilities, community hall, nursing homes, health related developments, sports and recreational facilities, utility installations and ancillary developments for community, educational and institutional uses in accordance with the CDP”*. The caveat attached to the box of uses notes the uses listed are typical appropriate uses for each zone type and the PA can determine each proposal on its merits and only permit development of uses that enhance, complement, are ancillary to, or neutral to the zoning objective.

10.5.4. Appendix 3 of the applicant’s Planning Report and Statement of Consistency includes a legal opinion from Eamonn Galligan Senior Counsel which states that he is generally of the opinion that the creche *“falls within the description of a “community use”, which is expressly included as a use “generally appropriate for community and educational zoned land”*. It is considered the proposal does not material contravene the LAP.

10.5.5. I note the land use zoning does not include a specific objective to set aside any of the CE lands for the expansion of the school. The CE zoning in Map 3 in the LAP includes both the school, lands to the east (subject site) and lands to the west, at the junction of the L1020 and R760. Upon site inspection it was evident that lands to the west of the school are currently not within the school site and there remains a potential for future expansion. No information has been submitted in either the application or third-party submissions to state that a certain size is required for the future expansion of the school or that the CE lands within the application has been

set aside for this educational use. In this instance, uses other than “educational” may be located beside the school which are not necessarily included in the list of permissible uses although they may *‘that enhance, complement, are ancillary to, or neutral to the zoning objective’*, as per the caveat attached to the zoning in Chpt 11

10.5.6. Section 8.3 of the Wicklow County Development Plan 2016-2022 (CDP) includes a breakdown of the services required for “Social Infrastructure”. Within the description of social infrastructure childcare, namely Montessori’s and pre-schools, are not included as education and development providers although they are included as those services providing physical and mental care. Therefore “childcare”, whether creche, preschool or Montessori, while not falling within the definition of “education and development” in the Wicklow Development Plan, meets the requirements of uses which are considered to constitute “social infrastructure”. The Board will note the description attached to the CE zoning is *‘To facilitate the development of necessary community, health, religious, educational, social and civic infrastructure’*. Having regard to allowance for social infrastructure in the CE zoning description and the information contained in section 8.3 of the Wicklow Development Plan which includes childcare as social infrastructure, I consider a childcare facility is acceptable within this land use, where considered compatible.

10.5.7. In relation to the compatibility with the CE zoning, and those permissible uses, I consider the caveat attached to the uses in Chpt 11 of the LAP allows the PA to permit other uses which *“enhance, complement, are ancillary to, or neutral to the zoning objective”*. The positioning of a creche beside the school will, in my opinion, complement an educational use and the most appropriate location would be beside a school as this would enable a reduction in trips for parents with children of various ages. In addition, session care provided in some childcare settings relates to the opening and closure of schools and this crèche would support the consolidation of social and community infrastructure.

10.5.8. In relation to the PA report, I note the main concern relates to the private ownership and operation of the creche and no specific concerns are raised which question the appropriateness of a creche use on the lands, rather than that it is a commercial creche. I do not consider that the ownership of the creche (or otherwise acceptable development/use) to be a matter which would render that use to be incompatible with the zoning of the land, including CE zoning.

10.6. Conclusion re. Principle of Development and compliance with 9(6)(b)

10.6.1. Having regard to the above, and having considered the submissions received, I am satisfied that the proposed development does not materially contravene any of the land use zonings for the area, whether R10, R20 or CE, and as such that the board is not precluded from considering this application under 9(6)(b), and that the development would not *‘contravene materially a development objective indicated in the development plan for the zoning of land for the use solely or primarily of particular areas for particular purposes (whether residential, commercial, industrial, agricultural, recreational, as open space or otherwise or a mixture of such uses)’*

Quantum of Development/Density and Material Contravention

10.7. Quantum of Development

10.7.1. Enniskerry is designated in Wicklow County Development Plan (CDP) 2016-2022 as a “Small growth town” in the settlement hierarchy of Wicklow County. The population of Enniskerry in 2016 was 1,889. Table 2.4 of the CDP includes a population target of 2,401 for Enniskerry up to 2025 (21.3% growth). This target is reiterated in Table 2.6 of the Bray Municipal Local Area Plan (LAP) 2018-2024.

10.7.2. The Chief Executive’s report submitted in relation to the proposal highlights the following:

- Under the Bray Municipal District Plan 2018-2021 the area for AA3 has an allocation of 105 residential units (c. 22 % of the housing stock of Enniskerry);
- The proposed development (in conjunction with approval under Reg Ref 19//871) would deliver 192 units c.40% of the housing stock for the settlement)
- Taking into account the extent permission in the settlement, the quantum would be in line with the future needs of the settlement.

10.7.3. In relation to the quantum of development provided, the CE report does not have any significant concerns relating to the overall projected population allocation for Enniskerry and considered the quantum would be in line with the future needs of the settlement. In other sections of the CE report non-compliance with the criteria for the development of AA3 lands, in particular the exceedance of the 105 maximum

allocation and the density provision, is questioned and raised as an issue. Therefore, overall, the CE report is satisfied the core strategy figures are not exceeded.

10.7.4. Action Area Plan 3: I note Table 3.2 of the LAP details the location for housing allocation in Enniskerry, in total given as 475 units. The lands designated as AA3, which comprise the subject site, are allocated 105 units. In addition to the 165 no. dwellings proposed there is a grant of permission on lands to the east for 27 dwelling (Reg Ref 19/871). The total dwellings on AA3 lands would if this development were permitted equate to 192. The Statement of Contravention submitted with the application note the extant permissions in Enniskerry equates to 59 no. units which is substantially below the 475 no. dwellings indicated in Table 3.2. There is no order of priority for the residential development in Enniskerry,

10.7.5. Having regard to the population allocation (i.e., 2401 persons up to 2025) for Enniskerry and the number of extant permissions in the settlement, I consider there is capacity in the allocation to accommodate an increased housing quantum and associated potential population increase on the AA3 lands and I do not consider the quantum of units proposed would result in a contravention of the core strategy in Table 2.6. Rather I consider the proposed development of 165 no units represent a contravention of Table 3.2 of the LAP which provides a breakdown of the housing allocation for designated areas in the Enniskerry Village with an allocation of 105 no units for the AA3 lands.

10.7.6. In summary, I am of the view that the proposed development materially contravenes the housing allocation for the AA3 lands, but that there is no contravention of the core strategy. The applicants have submitted a material contravention statement in respect of this issue, and I consider the appropriateness of such a material contravention in section 10.10 of this report.

10.8. Density

10.8.1. Development Objective: The density proposed is 31.9 units per ha (nett excluding the CE zoned lands and the OS1 zoned lands) and 25.7 units per ha gross (based on a site of c.6.27 hectares, c. 5.17ha respectively). As stated, the residential component of the development is located on residential lands where the development objectives are as follows:

- R20 New Residential: *“To protect, provide and improve residential amenities at a density up to 20 units/ha”*
- R10 New Residential Rural Fringe: *“To protect, provide and improve residential amenities at a lower density not exceeding 10units/ha”*

10.8.2. These densities are reiterated in the criteria for development on AA3 lands. The majority of lands are zoned R20 with a R10 zoned lands along the north western corner, close to the school site. The third parties and the PA consider the exceedance of the density on these lands to represent a material contravention of the land use. As previously assessed above, I note the residential land use zonings allow the proposal to be assessed as an SHD and the Board are not precluded from granting it under Section 9 (6) (b) as requested. Having regard to both the gross and the net densities I consider the proposal is in exceedance of the maximum density prescribed for the site in the LAP and as such, I consider the proposal represents a material contravention of the development objective of the LAP in respect of density.

10.8.3. Action Area Plan 3: The density requirements in the development criteria in AAP3 include: *maximum of 105 housing units may be provided in this action area, with density not exceeding 10/ha on the lands zoned R10, and the remainder may be developed at a higher density but not exceeding 20/ha*”. The proposed density of 31.9 dwellings per hectare exceeds the maximum densities in the criteria of development in the action area plan.

10.8.4. Objective HD5: Section 2.2.3 of the Bray LAP, “Population & Housing growth targets” notes the *“estimated potential number of additional units indicated for each piece of land is indicative only”* where normal planning considerations should be given in determining the capacity of the zoned land. In this regard Objective HD5 of the CDP in relation to density is noted which states *“In order to make best use of land resources and services, unless there are cogent reasons to the contrary, new residential development shall be expected to aim for the highest density indicated for the lands. The Council reserves the right to refuse permission for any development that is not consistent with this principle”*. The Statement of Material Contravention includes this Objective HD 5 as a material contravention of the CDP. I note the Chief Executive’s (CE) report does not reference Objective HD5 or consider there is any material contravention in this regard. In relation to density, concern is only raised in

relation to the exceedance of the development objectives. I note Objective HD 5 provides reference to the “*highest density indicated for lands*”. As stated above the development objective and criteria for development on AA3 lands restricts densities of up to 10 or 20 units per ha are on the site. Therefore, having regard to the restrictions listed in Objective HD5 I consider the proposal represents a material contravention of Objective HD5 of the CDP.

10.8.5. In summary, I am of the view that the proposed development materially contravenes the density requirements as stated in the development objectives for the residential zonings, the criteria for development on AA3 lands and the associated Objective HD5 of the Wicklow CDP. The applicant has submitted a material contravention statement in respect of this issue, and I consider the appropriateness of such a material contravention in section 10.10 of this report.

10.9. Conclusion on quantum of development and density

10.9.1. To conclude, I consider the proposed development, in relation to quantum of development and density, represents a material contravention of both the Wicklow County Council Development Plan 2016-2022 (CDP) and Bray Municipal District Local Area Plan 2018-2024 (LAP) as follows:

In relation to quantum of development:

- Table 3.2 of the LAP which allocates 105 no dwellings for the entire AA3,
- Criteria stated in the LAP for the quantum of development at 105 units.

In relation to density proposed:

- In both the CDP and the LAP, the exceedance of the specified density in the development objectives for lands zoned as R10, New Residential Rural Fringe and R20, New Residential.
- In the CDP, contravention of Objective HD5 which requires compliance with the densities associated with the development objectives.
- In the LAP, the density requirements associated with the criteria for development on AA3 lands.

10.10. Material Contravention of the Wicklow County Council Development Plan 2016-2022 (CDP) and the Bray Municipal District Local Area Plan 2018-2024 (LAP)

- 10.10.1. A Statement of Material Contravention accompanied the application. The justification for a grant of permission, pursuant to Section 37 (2) (b) of the Planning and Development Act, 2000, as amended. The applicant considered the proposed development materially contravenes the CDP and the LAP for those reasons detailed above
- 10.10.2. Section 37(2)(b) of the Planning and Development Act of 2000 as amended provides that where a planning authority has decided to refuse permission on the grounds that a proposed development materially contravenes the development plan, the Board may only grant permission in accordance with specific criteria. In relation to quantum of development and density the report of the CE considers the proposed development is a material contravention of the CDP and the LAP for the following
- The maximum number of housing units (105) in the action area plan,
 - The density is greater than the 10/ha or 20/ha in the in the action area plan.
- 10.11. Where the proposed development is deemed as a material contravention of the plan and as per the strategic housing development act, the Board may only grant permission for a strategic housing development which would materially contravene the development plan or local area plan where it considers section 37 (2) (b) of the Act of 2000 were to apply. I have provided an assessment under each of the criteria listed under Section 37 (2) (b) as follows;
- (i) *the proposed development is of strategic or national importance.*
- 10.11.1. The Statement of Material Contravention notes the inclusion of strategic housing development within the definition of “*strategic infrastructure development* “. A Strategic Housing Development may be regarded as of strategic importance for the delivery of essential housing in line with national policy for addressing homelessness. Pillar 3 of Rebuilding Ireland – Action Plan for Housing and Homelessness issued in July 2016, focuses on the delivery of housing stock as a key objective to tackle homelessness and support a growing population. The proposed development has the potential to contribute to the achievement of the Government’s policy to increase delivery of housing set out in Rebuilding Ireland – Action Plan for Housing and Homelessness issued in July 2016, and to facilitate the achievement of compact residential growth in an urban centre close to public transport and centres of employment.

10.11.2. In respect of the proposed development, I would note that Enniskerry is located c. 20km from the centre of Dublin with good bus links. Figure 10.8 of the EIAR illustrates the new Bus Connects Route proposed from Dublin, extended close to the subject site(R760), and at a density of c.20-35 units per hectare is an appropriate and sustainable density in line with the national requirements for compact growth in small growth towns. Within the context of Enniskerry the development is of a scale to be of strategic importance for this area in terms of meeting its population target, when one considers that from 2016-2021 only 59 units have been permitted in Enniskerry and none completed (notwithstanding a target of 475 units).

10.11.3. Having regard to the location of Enniskerry with good connectivity to Dublin City and the requirement for growth, I consider the provision of compact development at this location would support the Government's policy to increase the delivery of housing

ii) there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned,

10.11.4. I have not identified any conflict between the objectives in the development plan in so far as the development is concerned.

(iii) permission for the proposed development should be granted having regard to regional spatial and economic strategy for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government,

10.11.5. The objectives of the NPF, in particular NPO 3(a), 11 and 33 aim to direct new homes at locations which can support sustainable development and can encourage more people and generate more jobs and activity in towns. The principles of compact growth are promoted in urban areas of all levels. Enniskerry is located c. 20km from Dublin City Centre and is designated as a small growth town in the CDP. The site is current connected via a bus route and it is proposed the Bus Connects will service the site. The subject site is located on the southern edge of Enniskerry settlement in lands zoned and identified for the growth (AA3).

- 10.11.6. Table 2.2 of the CDP lists Enniskerry as a Level 5 in the settlement plan a smaller settlement (Level 6) is included in the hierarchy. As stated above, the expected growth of Enniskerry until 2025 is for an increase of 21.5% of which the Statement of Material Contravention states will not be met.
- 10.11.7. The Statement of Contravention advocates that increased densities are necessary to facilitate development in areas identified for growth to ensure compact growth and co-ordinate with the provision of infrastructure and services. The site is located beside a national school, a short distance from a regional route (R720) and a large tourist designation (Powerscourt Estate) provides the perfect opportunity for supporting a community and residential development.
- 10.11.8. In relation to section 28 guidance, both the Sustainable Residential Development in Urban Areas (SRDUA) and the Design Standards for New Apartments Guidelines for Planning Authorities (2018) (Section 2.4) highlight the need for increased densities at towns to ensure efficient use of zoned residential lands. The guidelines also note that the scale and extent of development should increase in relation to proximity to public transport. The applicant's Statement of Consistency notes the location of the site as an Edge of Centre Site and Section 6.12 of the Sustainable Residential Guidelines includes a requirement of 20-35 dwellings per hectare. It is submitted that the proposal represents in excess of the 20% of the total new planned housing stock, as per the core strategy, and therefore the density of 20-35 uph is applicable on the site. The third parties consider the classification of the site as an edge of small town/village is most appropriate with a density requirement of 15-20 dwellings per hectare. Additional guidance is provided in Circular: NRUP 02/2021 which emphasises the need to adapt scale, design and layout of housing in towns and villages. In this regard, development should respond appropriately to the character scale and setting of the town or village, particularly at the edge of larger towns.
- 10.11.9. Having regard to the location of the site on the edge of Enniskerry, which is a small growth town, I consider the application of densities of 20-35 dwelling per hectare, as per Section 6.11 of SRDUA are the most appropriate. While in the context of the Urban Development and Building Height Guidelines 2018, the densities proposed on the site with 31.9 dwellings per ha (gross) and 25.7 dwelling per ha (net) are relatively low, they are in compliance with SRDUA/2009 Residential Density

Guidelines. In my opinion a further reduction in densities at this site would lead to an inefficient use of lands and would be contrary to the various s.28 guidance re. residential densities and development.

10.11.10. Circular: NRUP 02/2021 also highlights the application of densities as per SPPR 4 of the Building Height Guidelines. Greenfield sites on the edge of city/ towns must have densities in line with the sustainable residential guidelines, provide a greater mix of building heights and topography and avoid mono-type typologies in development of 100 units or more. The proposed development avoids mono-type own door dwelling with 56 no. apartments/ duplex apartments in 3 storeys. It is considered that the density and associated design of the proposed development complies with SPPR 4.

10.11.11. Therefore, having regard to the NPF, the Sustainable Residential Guidelines and the accompanying Circular NRUP 02/21 and SPPR 4 of the Building Height Guidelines, I consider the exceedance of units above the allocated 105 for Action Area Plan 3 and the increase density from 10/20 dwelling per hectare to 31.9 dwelling per hectare is acceptable.

(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.

No permissions have been highlighted in the Statement of Material Contravention.

Conclusion

10.11.12. It is my opinion that having regard to the location of the site, national, regional and local polices requiring the growth of settlements, and although it would constitute a material contravention of the Wicklow County Development Plan 2016-2022 and the Bray Local Area Plan 2018-2024, the proposal provides an efficient use of zoned and serviceable lands, contiguous to Enniskerry centre with direct access to social infrastructure, and could be permitted in respect of quantum and density having regard to the provisions of s.37(2)(b)(i) and (iii) .

Action Area Plan 3 (AA3) and Material Contravention for voluntary/sheltered housing

10.12. Introduction

10.12.1. The site is located on lands designated in the Bray Municipal Local Area Plan (LAP) as AA3. The action area plan for this parcel (AA3) was placed on public display by Wicklow County Council in June 2020 and the approved plan accompanied the application. The plan sets out planning policy background and includes a list of criteria for the development on this parcel. Maps indicating the delineation of two landowners are included in the plan. Permission has been granted for the site along the west, in separate ownership (Scalaheen Ltd), for 27 no dwellings (Reg Ref 19/871).

10.12.2. A number of submissions have raised concerns in relation to compliance with the criteria for development on the AA3 lands, mostly relating to the requirement for voluntary/sheltered housing. In regard to the criteria for development for the action area plan, the CE's report recommends a refusal of the proposed development because it cannot meet the criteria relating to the quantum of development, the density and the provision of voluntary/sheltered accommodation on the site.

10.13. Criteria for development on the AA3 lands.

10.13.1. The criteria for development on AAP3 lands is listed below:

- *A maximum of 105 housing units may be provided in this action area, with density not exceeding 10/ha on the lands zoned R10, and the remainder may be developed at a higher density but not exceeding 20/ha.*
- *A minimum area of 0.4ha shall be provided for voluntary / sheltered housing, of a type to be agreed with the Local Authority, as part of any Part V obligations under the Wicklow Housing Strategy. Permission will not be considered for private housing until sufficient progress has been made on this element.*
- *Access to the site shall be from local road LP-1020.*
- *A public park of a minimum of 2ha shall be established along the full southern and western boundaries of the action area, which shall comprise an amenity*

walk area along the existing tree lined field boundaries connecting through the development to regional road R760 (Enniskerry – Kilmacanogue) and to the existing pedestrian route along the Dargle. In light of the provision of such an amenity space, the incidental open space required to be interspersed throughout the residential area may be reduced to 7.5% of the total zoned residential area.

- *Any development shall be so designed to maintain maximum views of the Sugarloaf from Cookstown Road.*

10.13.2. The issues relating to quantum of development and density proposed has been dealt with in sufficient detail in Section 10.3 above. In this regard, I have concluded that although material contravention issues arise, a grant of permission is justified under Section 37 (2) (b).

10.13.3. The issues relating to the delivery of voluntary/ sheltered housing and the material contravention of this criteria are further addressed in detail below.

10.13.4. In relation to the access into the site I am satisfied the site is accessed from the local road LP-1020 and no material contravention issues arise.

10.13.5. In relation to the public park, the lands along the south of the site are zoned OS1. These lands include a linear park (c.03ha). Pedestrian connections are proposed south onto “Lovers leap Lane” and west into the adjoining permitted development (Reg Ref 19/871). Additional ancillary open space equating to 7.7% is provided throughout the remainder of the development. Having regard to the quantum and layout of open space, I consider the public park and incidental open space area is provided. Therefore, I am satisfied that no material contravention issues arise here.

10.13.6. In relation to the views of the Sugarloaf, the visual impact on the landscape was addressed in the EIA. The proposed development was designed to retain a central vista to protect the views from the Cookstown Road towards Sugar Loaf Mountain. The visual assessment in the EIAR noted the greatest impact on V no. 7, from the Cookstown Road towards Sugar loaf Mountain was during construction. Having regard to the design and layout of the proposed development I consider the maximum views of the Sugarloaf from Cookstown Road are maintained. Therefore, I am satisfied that no material contravention issues arise here.

10.14. Material Contravention for the provision of Voluntary/sheltered accommodation

- 10.14.1. The applicant's Statement of Material Contravention states that the Board may consider that the proposed development materially contravenes the AAP3 and LAP as 0.2 ha of the required 0.4 ha have been provided for Part V. The proposal provides 16 no. Part V units as part of the duplex apartments and maisonette dwellings. The Planning Statement of Consistency notes the Sheltered Accommodation is not required by the Housing Section of Wicklow County Council. The Report of the Housing and Cooperate section notes no objection to the Part V proposal subject to some alterations.
- 10.14.2. The CE's report raised concern in relation to compliance with this specific housing criterion necessary for compliance for AAP3 and recommend a refusal for noncompliance of these criteria. In the event of a grant of permission the PA recommend the inclusion of a condition requiring that an area of 0.4ha of residential lands is set aside for "*voluntary/sheltered housing, of a type to be agreed with the Local Authority*". It is stated that this will be offset against any Part V requirements.
- 10.14.3. Section 37(2)(b) of the Planning and Development Act of 2000 as amended provides that where a planning authority has decided to refuse permission on the grounds that a proposed development materially contravenes the development plan, the Board may only grant permission in accordance with specific criteria. The justification for a grant of permission is considered, pursuant to Section 37 (2) (b) of the Planning and Development Act, 2000, as amended.
- (ii) *the proposed development is of strategic or national importance.*
- 10.14.4. As stated above in Section 10.11.1, the proposed development falls within the definition of a Strategic Housing Development. National Policy Objective 33 of the NPF seeks to prioritise the provision of new homes at locations which can support sustainable development. Pillar 2 of Rebuilding Ireland – Action Plan for Housing and Homelessness issued in July 2016 seeks to accelerate all types of housing supply- social, private and rental and "*to significantly increase the level and scale of supports available to those whose circumstances mean they need help in meeting their housing needs*". A letter from Tuath Housing accompanied the application. It is stated that this Housing Association would be interested in acquiring the Part V element of the proposed development. The source of funding is stated to be a mix of

CALF (Capital Advance Leasing Facility) and a maximum of 30% with the remaining private finance through the Housing Finance Agency.

10.14.5. The current requirement in the action plan for voluntary/sheltered accommodation, having regard to a density of 20/ha on an area of 0.4ha, may only deliver 8 units towards Part V. The proposed delivery of 16 no dwellings as compliance with the Part V requirements, at a location adjoining a school, on the edge of a settlement close to Dublin, will support the delivery of social and affordable housing in line with the requirements of the national planning guidelines.

10.14.6. In this regard, I consider a material contravention under this criteria 37 (2) (b) (i) is justified.

ii) there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned,

10.14.7. The applicant's statement of material contravention states that the requirement for sheltered/ voluntary housing does not reflect the Wicklow County Council Housing Strategy 2016-2022 as it does not mention sheltered or voluntary housing. Although the criteria for voluntary/sheltered accommodation on the AAP3 lands may not be entirely reflective of the housing strategy, I do not consider the requirement to provide voluntary sheltered conflicts with the development plan.

(iii) permission for the proposed development should be granted having regard to regional spatial and economic strategy for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government,

10.14.8. The criteria in AAP3 requires the provision of 0.4ha of "voluntary / sheltered housing" as part of the Part V obligation, not in addition to. The proposed development complies with the Part V obligation in so far as 16 no. houses are provided with an understanding that a Housing Association will purchase these dwellings. However, it does not comply with the criteria of the AAP3. The applicant states that the site area for the 16-no. dwellings for the Part V equates to c. 0.2ha. I would in addition note, that were the proposal to follow the density and housing

allocation figures of the AAP3 lands (i.e. 105 units in total, less than 27 already permitted, that a part V requirement of only 8 units would follow), as such a greater number of units are being delivered through this proposal (double the number) than would have been otherwise realised, albeit because of the increase in the density on a lesser area of lands (0.2ha rather than 0.4ha).

10.14.9. The Statement of Material Contravention states that the provision of sheltered accommodation on 0.4 ha (equating to a density of c. 11 units/ha would be below the density standards in the S 28 guidance. This would not be in line with the Guidelines for Sustainable Residential Development in Urban Areas (SRDUA)(Section 6.11) or the Building Height Guidelines. The delivery of a lower density scheme of say 20 units per ha, as required by the PA, would only deliver c. 8 dwellings, which is 50% less than the applicant has proposed. As stated above in the assessment on density, the increase in density at this location is justified having regard to the criteria for appropriate densities in both the Sustainable Residential Guidelines and the accompanying Circular NRUP 02/21 and SPPR 4 of the Building Height Guidelines.

10.14.10. In relation to the location and type for the Part V units, I note they are within Duplex Blocks B1, B2 with additional dwellings no. 104, 105, 106 and 107 (Type F), further south (Drwg19010_MOLA_A00_00_DR_A_XX_A00_0900). They include a range and type of typologies and are located, in the most part, throughout the housing scheme. This configuration is considered appropriate for the integration of social and affordable housing throughout the proposed development, rather than consolidation in one location. I note the Section 2.2 of the national Part V guidelines, "*Part V of the Planning and Development Act, 2000*" states that account should be given to "*the need to ensure that a mixture of house types is development to reasonably match the requirements of the different categories of households, as may be determined by the local authority.....*". This ensures that the type of units the local authority is interested in acquiring to meet the demands of the housing lists. As stated above, the report of the Housing and Cooperate section notes no objection.

10.14.11. The requirement for a greater mix and range of housing typologies is also highlighted in the Building Height Guidelines and the Sustainable Residential Development in Urban Areas (SRDUA). I note Section 3.4 of the Building Height Guidelines requires developments to address the need for 1- and 2-bedroom units in line with wider demographic trends. This requirement is transferred into SPPR 4 (3)

which specifies the need to avoid mono-type building typologies. In addition, Section 2.2 of the SRDUA requires a range of different dwelling types and sizes to meet the needs of the wider area.

10.14.12. The subject site is located beside an existing residential estate, where the dominant housing tenure is large, detached dwellings. The proposed development includes a significant proportion of 1 and 2 bed units throughout the development. Whilst I note the dominant provision of 3 bed units, these are distributed across a range of different tenure which I consider is in line with national guidance and SPPR 4 of the Building Height Guidelines. Having regard to the Section 28 guidance in relation to the delivery of Part V in housing schemes and the need to ensure the efficient use of lands with a range and mix of typologies, I consider the applicant has reasonably addressed Part V on the site.

10.14.13. Having regard to the national guidance, the requirement for an area of 0.4ha to be set aside for sheltered/voluntary housing would, in my opinion, prevent the integration of the social and affordable units throughout the housing estate. In addition, the delivery of a lower density scheme of say 20 units per ha, as required by the PA, would only deliver c. 8 dwellings, which is 50% less than the applicant has proposed.

10.14.14. To conclude, I consider the proposal to provide 16 no dwellings, throughout the estate will ensure social integration, in addition the range of dwelling types proposed will comply with Section 6.11 of the SRUDA/ Residential Guidelines, SPPR 4 of the Building Height Guidelines and Section 2.2 of the Part V guidance in relation to housing types. In relation to the density and associated delivery of, social and affordable dwellings the proposal will comply with Section 6.11 of the sustainable residential guidelines.

10.14.15. In this regard, I consider a material contravention under this criteria 37 (2) (b) (iii) is justified.

(iv) permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.

10.14.16. The applicant's Statement of Contravention does not consider any permissions granted are relevant. I do not consider this criteria to be applicable.

10.15. Conclusion

- 10.15.1. Therefore, having regard to my assessment above I consider a grant of permission under Section 37 (2) (b) (i) and (ii) of the Planning and Development Act 2000 (as amended), is justified in this instance.

Design and Layout and Material Contravention of Objective H6

10.16. Introduction

- 10.16.1. The proposed development includes 165 no dwellings, a crèche and the provision of a linear park along the south of the site. The upgrade of the Cookstown Road includes an increase in the width of the road, extension of the footpath from the front of the Powerscourt School from the west to the junction of the access into the site and provision of pedestrian crossings to the opposite side of the Cookstown Road.
- 10.16.2. The overall design of the proposed development has been raised in the third-party submissions. The height of the duplex units, location of the open space, the impact on the site and the surrounding area and compliance with Objective R6 have been raised.
- 10.16.3. The report from the PA notes the design and layout, considers the proposal should relate to the rural character of Enniskerry, materials should be changed, and states that the proposal does not accord with Objective R6 of the LAP. Hedgerows and trees should be retained where possible. The issues relating to the roads design have been detailed in the Traffic and Transport Section above in the EIA although in relation to overall design and layout the central road is not considered appropriate.
- 10.16.4. The Wicklow County Development Plan 2016-2022 is accompanied by a Development and Design Standard documents which sets out the Wicklow County Council requirements for new housing developments. The 12 principles of the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (Cities, Towns & Villages) 2009' and the accompanying design manual should be addressed in any new development. These Guidelines advocate high quality sustainable development that are well designed and built to integrate with the existing or new communities and the design manual provides best practice design

criteria such as context, connections, inclusivity, variety, efficiency, layout etc. I have assessed the development against these criteria.

10.17. Location of Apartments and Material Contravention of Objective HD13

10.17.1. The breakdown of units is as follows:

- 105 no. 2 storey houses (49 no. 3 bedroom houses /56 no. 4 bedroom houses);
- 56 no. apartments/duplex apartments in 6 no. 3 storey buildings (28 no. 2 bedroom apartments and 28 no. 3 bedroom duplex apartments);
- 4 no. 1 bedroom Maisonette dwellings in a 2 storey building;

10.17.2. A number of submissions received have raised the appropriateness of apartments at this location and the impact on the scale to the village setting. The CE submission notes the majority of the one-bedroom units have been allocated to Part V. However, the voluntary sector has indicated this is acceptable and housing section of Wicklow have no objection.

10.17.3. Objective HD 13 of the Wicklow County Development Plan 2016-2022 states that apartments will only be permitted within the designated centres in settlements (i.e., designated town, village or neighbourhood centres), on mixed use designated lands (that are suitable for residential uses as part of the mix component) or within 10 minutes walking distance of a train or light rail station. The site is not located within 10minutes of a train or light rail station and the Statement of Contravention considers the contravention of the plan to allow apartments at this location is justified under Section 37 (2) (b) (iii).

10.17.4. I have provided an assessment under the criteria as set out in section 37 (2)(b) of the Planning and Development Act 2000 (as amended) and the rationale and use of Section 37 (2) (b) (i) detailed above in para 10.11.10 and 10.14.8, is also applicable in respect of this contravention (in that the use of apartments facilitate higher densities and mix of typologies, to meet the criteria relating to Section 37 (2) (b) (i));

ii) there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned,

10.17.5. A stated above Objective HD 13 of the CDP restricts apartments to locations within 10mins of light rail or trains stations. Objective HD3 of the CDP requires housing developments to be in accordance with the standards set out in the Development and Design Standards. Appendix 1 of the CDP, Development and Design Standards, permits a max of 20% for “out-of-centre” locations. The proposal includes 28 no apartments within Block A/B/C & D of the duplex units all of which are 2-bedroom units. The application form states 20,730m² for gross residential. The area of the 28 no. apartments equates to 2,314.7m², c. 11% which is within the permissible allowance in the CDP development guidelines.

10.17.6. In that there is no requirement for “out-of-centre” locations to be within a 10min radius of a light rail or train station, and in fact it is generally unlikely that this would be the case, the two objectives de facto conflict, therefore, I consider there is conflicting objectives in the development plan between Objective HD3 and HD13.

(iii) permission for the proposed development should be granted having regard to regional spatial and economic strategy for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government,

10.17.7. The Sustainable Residential Development in Urban Areas (SRDUA) and the Design Standards for New Apartments Guidelines for Planning Authorities (2018) (Section 2.4) highlight the need for a range of mix and tenure of housing types to promote social integration. In addition, SPPR 4 of the Urban Development and Building Height Guidelines requires that in planning for the future, planning authorities must secure the minimum densities as set out in the Sustainable Residential Guidelines, a greater mix of building heights and typologies and avoid mono-type building typologies. The site is surrounded by large, detached dwellings located on individual plots. The existing range and typologies are limited, and I note the description for development on R20; New Residential lands requires an excellent layout and an appropriate mix of house sizes, types and tenures to meet household needs and to promote balanced communities. I consider the inclusion of smaller units will ensure compliance with the national guidance and the guidance for development for the residential zoned lands.

10.17.8. Therefore, having regard to my assessment above I consider a grant of permission under Section 37 (2) (b) (ii) and (iii) of the Planning and Development Act 2000 (as amended), is justified in this instance.

10.18. Interface with Cookstown Road

10.18.1. The subject site fronts onto and is accessed from the Cookstown Road, a local road which provides access from the R760 to the N11. The Powerscourt National School, Summerhill House Hotel and Enniskerry Demesne estate are in the immediate vicinity of the site.

10.18.2. An Architectural Design Statement accompanied the application. The retention of the majority of the existing mature boundary treatment along the Cookstown Road is considered necessary for a sensitive design, respecting those existing features of the site. A more active streetscape is provided along the western section of the interface between the site and the school, which is connected by a footpath. There are level differences between the site and the Cookstown Road and substantial landscaping is proposed as a buffer and the pedestrian access raised into the site, beside the creche and beside the site access. The inclusion of steps into the site is considered inappropriate by the PA. I note the site plan illustrates two pedestrian access routes from the Cookstown Road. Steps from one of the pedestrian access points is proposed for the duplex units. A separate pedestrian access to the rear also provides access to the duplex units and does not include steps. I consider the proposal integrates a range of options for all mobilities and I do not consider any alteration to the design of these access routes is necessary.

10.18.3. I consider the location of the duplex units and crèche to the front of the site, the retention of the majority of trees and hedgerows along the main interface of the Cookstown Road will ensure the overall development respects the surroundings and the transition between an urban settlement and the rural countryside.

10.19. DMURS and permeability

10.19.1. The length and orientation of the central road is considered as having a negative impact as speeding will be encouraged. The orientation and design of this central road has been previously assessed in the EIA in regard to the impact on the landscape and visual amenity assessment and DMURS compliance. The location of the road as a central spine is considered a positive design feature and should be

retained to protect the views from Cookstown Road over to Sugarloaf Mountain. In regard to the DMURS compliance and permeability, the EIA has concluded that the design and layout will ensure permeability is promoted into the adjoining site to the east and the design features such as road widths and home zones ensure compliance with the DMURS principles. The PA recommend a condition I order to agreed final details on the internal layout, which I consider reasonable.

10.20. Height of duplex units

10.20.1. The existing site survey indicates the current site levels along the site which rise towards the rear of the site along the site. The duplex units are located along the north, north west and north eastern of the site. Third parties have raised the height of these duplex units and the impact on adjoining properties, further elaborated below in relation to the impact on residential amenity.

10.20.2. A third-party submission was received by the occupant of the dwelling located to the north east of the site regarding the impact of the 3 storey duplex units (Block C and D). The finished floor levels of the closest duplex units will be 106.46m, c. 2m above the existing ground levels at the same location. The ground levels of the property to the east of the site are not detailed in the site survey plan although the Board will note the landscape and visual assessment in the EIAR noted the scale of the mature planting within the existing property to the east of the site and considered the visual impact will not be significant.

10.21. Architectural Detailing and Material Finishes

10.21.1. The CE's Report expresses concerns in relation to the proposed material finishes and in relation to the treatment of elevations. They consider the red roof tiles and red brick tiles are not appropriate and the natural slate, textured render and natural stone are more appropriate at this location.

10.21.2. Five-character areas are highlighted in the Architectural Design Statement. The character areas are characterised by their locations and linked to separate open space areas rather than the use of materials. These issues are discussed further below in relation to compliance with Housing Objective R6 of the LAP which requires in estates over 60 dwellings there are a "number of smaller 'estates', which shall be differentiated from each other by the use of materially different design themes". I consider the use of materially different design themes can be reasonably linked to

the character areas identified in the Architectural Design Statement. Should the Board be of a mind to grant permission, a condition requiring the submission of a range of façade changes with alterations to the materials can reasonably address Objective R6. I consider this condition can include alterations to the materials stated in the CE submission as natural stone, tiles etc which are representative of the existing natural area.

10.22. Objective H6 (Size of Housing estate) / Material Contravention

- 10.22.1. The proposed development is for 165 no dwellings. The Bray Local Area Plan 2018-2024 includes a specific objective for Enniskerry relating to the size of residential estates and Housing Objective R6 of the LAP states that “*The maximum size of any single ‘housing estate’ shall be 60 units and developments that include more than 60 units should be broken into a number of smaller ‘estates’, which shall be differentiated from each other by the use of materially different design themes*”. A number of submissions note the material contravention statement does not include any reference to Objective R6. The PA submission also considered the proposal does not accord with Objective R6. The Board will note that the Statement of Material Contravention nor any of the specific plans and particulars specifically relate to Objective R6. The CDP (Objective HD17) includes a similar type of objective although it specifically references estates of over 200 units.
- 10.22.2. Objective R6 does not restrict the size of a housing estate to 60 rather it requires any housing estates over 60 units to have a “*number of smaller ‘estates’, which shall be differentiated from each other by the use of materially different design themes*”. As stated above, the Architectural Design Statement includes 5-character areas and whilst they do not include materially different design themes, such as external material changes or design differentiation, there is some deviation in house types such as duplex units and apartments in the norther character areas. Having regard to my assessment above I consider a condition requiring the inclusion of a range of external materials is reasonable to further ensure the character areas are defined and Objective R6 will be complied with.
- 10.22.3. Therefore, while the submitted documentation does not reference specific compliance with Objective R6, I am satisfied that the provisions of this objective can be complied with through appropriate design alterations with changes in external

materials for each character area by way of condition and is not a material of the LAP.

10.23. Creche

10.23.1. The crèche is located at the north west corner of the site, beside the Powerscourt National School and facing onto the Cookstown Road. Having regard to the topography of the site, the crèche is raised c.2m above the road and surrounding area. The design is contemporary and responds well to the site. A dedicated play area and set down area are included.

10.23.2. The Board will note the PA have recommended a condition to relocate the creche onto lands zoned as residential development with the omission of Duplex Block A2 and lands associated with this to accommodate this relocation. I have addressed this issue in detail and concluded the location on CE zoned lands is considered acceptable. Should the Board consider the land use zoning is not acceptable then I consider the relocation of crèche on Duplex Block A2 can be reasonably undertaken and conditioned.

10.24. Conclusion

10.24.1. Overall, the design and layout of the proposed development responds sufficiently to the topography of the site. The main issues of concern raised in relation to impact on the surrounding area are the height of the duplex units, which I do not consider are appropriate in an urban setting and will not have a negative impact on the immediate vicinity, Other issues of concerns raised such as the use of materials to provide different design themes and finishes can be reasonably conditioned on any grant of permission and do not materially contravene any objective in the development plan.

Quality and Amenity of Residential Development

10.25. Open Space

10.25.1. Two main areas of open space are proposed, a linear park along the south on the OS1 designated lands and pocket park at the entrance of the site. Smaller open space areas are located along the main spine road, adjoining the dwellings with communal open space associated with the duplex units to the north. The size of

these smaller open space areas is raised in the third-party submissions as it is considered they are insufficient to provide sufficient open space areas.

10.25.2. The criteria for the provision of open space on the AA3 lands allows an offset of additional open space where the OSI lands are integrated. As stated above the proposal complies with this quantum required (7.7%). The additional areas along the side of the central road have been integrated to ensure the views and vistas of the Sugarloaf Mountain are retained from the Cookstown Road and the design will integrate biodiversity features such as swale and passive play areas. In addition to the significant amount of open space to the south, which provides access onto Lovers Leap Lane, I consider the design and layout of the public green spaces sufficient to enhance the residential amenity of future residents.

10.25.3. Communal open spaces associated with the duplex units are located to the north east corner and beside the parking area behind Duplex Block A1. In relation to the communal open space to the north east, I consider it is a reasonable size although is poorly overlooked and the design of the adjoining duplex is not sufficient to allow any passive surveillance. I consider a redesign of these end units is required to ensure the amenity space is useable. This can be addressed by condition. Two smaller pockets of communal open space are provided to the west although smaller, there is a substantial amount of public open space to the north of the site which also can be availed of by the residents. I consider there is an absence of play facilities which is required to comply with Section 4.13 of the apartment guidelines. In this regard I consider a condition relating to provision of adequate play facilities can be reasonably included on any grant of permission.

10.25.4. The "Taking in Charge" diagram illustrates the areas to be included within the "Owners Management Company" include all duplex units to the north of the site, the crèche and open space area at the entrance and adjoining the duplex units. The large linear park along the south will be taken in charge by Wicklow County Council Communal open space is provided for the Duplex units. The Housing Quality Assessment provides a breakdown of the compliance with the apartment guidelines which I note and consider reasonable. The PA request that a management company related to these apartments and the maintenance of the open space is included as a condition to be included on any grant of permission. Having regard to the detail in the

taking in charge diagram and the communal open space which is associated with apartments/duplex, I consider this condition reasonable.

10.26. Size of apartments

10.26.1. A Housing Quality Assessment accompanied the application which includes details of the floorspaces within each apartment type and a breakdown of the minimum requirements. I note the proposed development either complies with or exceeds the minimum apartment floor areas in SPPR 3 and Appendix 1 of the apartment guidelines.

10.27. Daylight and Sunlight

10.27.1. I refer the Board to the submitted Daylight Reception Report. BRE and the BS guidance recommends that for new dwellings daylight to habitable rooms should exceed a calculated Average Daylight Factor (ADF) of 2% for a kitchen, 1.5% for a living room and 1% for a bedroom (1.5% shared kitchen/living space). The applicant has undertaken a calculation of the amount of daylight received by rooms for the rooms in Duplex A/ B, C& D in accordance with BRE guidelines and expressed the results as Average Daylight Factor. Section 9.3.1 - 9.3.12 of the submitted report details the ADF results for the rooms assessed. In all but 4, instances the target ADF levels detailed in the BS and BRE guidance (2% for a kitchen 1.5% for a living room, 1% for a bedroom) are met. These units include:

- Duplex Block C/ Ground Floor- Room 1 – Living/kitch/dining- ADF 1.54
- Duplex Block C/Ground Floor-Room 6- Living/kitch/dining- ADF 1.76
- Duplex Block D/Ground Floor-Room 1- Living/kitch/dining- ADF 1.64
- Duplex Block D/Ground Floor-Room 6- Living/kitch/dining- ADF 1.60

10.27.2. In relation to those 4 rooms where the 2% for kitchen cannot be met, the report notes that if the space is assessed as a living/kitchen/dining area as a whole then the targets are above the recommended BRE recommendations of 1.5% for living/dining rooms. This is not considered unreasonable as the rooms predominantly function as living rooms rather than kitchens.

10.27.3. Appendix 1 of the CDP requires adequate sunlight and daylight, in accordance with the BRE guidelines although the Urban Development and Building

Height Guidelines reference reasonable regard for these guidelines where increase heights are proposed. 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 2009 guidance does not give any advice on the targets to be achieved within a combined kitchen/living/dining layout although the submitted report references a 1.5% target, stating that kitchen has direct access to the dining/kitchen area which meets the BRE recommendations and as such the living room should be assessed as the main space. As stated above, the targets described in the BRE guidelines are discretionary, not policy. I note those 4 no. rooms are located on the ground floor with direct access onto a terrace area, which would offer compensation for the lower ADF levels.

10.27.4. Although the BRE provides guidance on sunlight/ daylight they are considered best practice. I am satisfied that flexibility as to the target ADF is applicable, and that there is adequate justification in terms of use of an alternative target ADF of 1.5% for the open plan living/kitchen rooms, having regard to the nature of the typology proposed and the primary use of the space. The vast majority of units (all bar 4) achieve 2% and that where there is deviation to 1.5% ADF target this is acceptable and does not result in poor residential amenity. All units have a good aspect and external amenity spaces in the form of balconies/terraces and there are no north facing, single aspect units. The ADF of over 1.5% for these galley-type kitchen areas provides adequate sunlight and daylight, in accordance with the BRE guidance, therefore complying with Appendix 1 of the CDP.

10.27.5. The traditional housing typologies have not been assessed in terms of sunlight/daylight, however, traditional housing will inevitably meet the required BRE standards when the appropriate design standards are met, as is the case in respect of the housing proposed.

10.28. Phasing

10.28.1. No detailed phasing programme is submitted with the proposed development. The PA consider the phasing should be linked to the public park, crèche, necessary infrastructure a condition requiring the delivery of the creche for no more than 75

dwellings, no occupation until the public park and amenity walk are completed and the Cookstown Road has been upgraded to a standard suitable to accommodate traffic movements generated by this development. I consider these services are necessary to support the residential amenity of future occupants and prevent any negative impact on the surrounding area and I consider a condition requiring the submission of a phasing strategy is reasonable. However, having regard to planting seasons and that it may not be appropriate to apply finishing courses to roads pending completion of construction, it may be acceptable to allow for substantial completion of the associated physical and green infrastructure and agreement as to final completion in tandem with the remainder of the development.

10.29. Conclusion

- 10.29.1. To conclude, I consider that the design and layout of the development is generally satisfactory with regard to national and development plan guidance for residential development and that, subject to the recommended amendments, it would offer a reasonable standard of residential accommodation and amenity for future residents of the scheme.

Impact on Residential Amenity

- 10.29.2. The site is located to the south of an existing residential estate, Enniskerry Demesne, to the east of a permitted scheme for 27 no. dwellings (Reg Ref 19/871) and west of two detached dwelling set within large plots Pine heights and Tinnabeg. A significant amount of third-party submission has been received from residents in the vicinity who have raised concern in relation to the impact of the proposal on their existing residential amenity.

10.30. Overlooking

- 10.30.1. The site is separated from the Enniskerry Demesne by the Cookstown Road and the proposed development is c. 2m above the height of this road, with the existing mature trees along the road retained. The site is separated from the dwellings Pine Heights and Tinnabeg by significant boundary of trees and hedgerows of which the majority are within the adjoining resident's property.
- 10.30.2. Objective HD3 of the CDP requires housing developments to be in accordance with the standards set out in the Development and Design Standards.

Appendix 1 of the CDP, Development and Design Standards. Traditional back-to-back rows of houses, exactly 22 m apart should be avoided. I note the layout of the proposal does not include any direct overlooking into existing housing. In relation to Enniskerry Demesne, the closest dwelling is c.40m separated by a road and boundary treatment associated with this estate. In relation to those dwellings to the east, the rear of the duplex units is c. 28m from the dwelling. The extensive mature trees and hedging on the adjoining residents' lands are noted and although they consider that they may remove these at any time, I consider the site conditions at the time of the application must be considered in the making of any assessment. Therefore, I consider the retention of these trees and hedgerows may be considered in a planning-based assessment.

10.31. Loss of Daylight/Sunlight/Overshadowing

- 10.31.1. Section 3.2 of the Urban Development and Building Height Guidelines (2018) states that the form, massing and height of proposed developments should be carefully modulated so as to maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light. The Guidelines state that appropriate and reasonable regard should be taken of quantitative performance approaches to daylight provision outlined in guides like the BRE 'Site Layout Planning for Daylight and Sunlight' (2nd edition) or BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'. Where a proposal may not be able to fully meet all the requirements of the daylight provisions above, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, in respect of which the PA or ABP should apply their discretion, having regard to local factors including specific site constraints and the balancing of that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and / or an effective urban design and streetscape solution. The Sustainable Urban Housing Design Standards for New Apartments Guidelines (updated 2020) also state that PA should have regard to these BRE or BS standards (S6.6 refers).
- 10.31.2. The applicant's assessment of daylight, sunlight and overshadowing relies on the standards in the following document:

- BRE Report “Site Layout Planning for Daylight and Sunlight: A Guide to good practice”;
- European / British Standard EN17037 / BS EN17037 Lighting for Buildings: Code of Practice for Day Lighting (supersedes BS 8206-2:2008 (British Standard Lighting for Buildings – Code of Practice for Daylighting)); and

10.31.3. I have considered the reports submitted by the applicant and have had regard to BRE 209 – Site Layout Planning for Daylight and Sunlight – A guide to good practice (2011) and BS 8206-2:2008 (British Standard Light for Buildings- Code of practice for daylighting) – the documents referenced in Section 28 Ministerial Guidelines. While I note the applicant’s reliance on 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 does not have a material bearing on the outcome of the assessment.

10.31.4. I have given a detailed description of the interface between the proposed development and existing housing above. I have also carried out a site inspection, considered the third-party submissions that express concern in respect of potential impacts as a result of overshadowing/loss of sunlight/daylight and reviewed the planning drawings. In considering the potential impact on existing dwellings I have considered – (1) the loss of light from the sky into the existing houses through the main windows to living/ kitchen/ bedrooms; and (2) overshadowing and loss of sunlight to the private amenity spaces associated with the houses (rear gardens in this instance).

10.32. Light from the Sky (Vertical Sky Component VSC)

10.32.1. The BRE guidance on daylight is intended for rooms in adjoining dwellings where daylight is required, including living rooms, kitchens, and bedrooms. Criteria set out in Section 2.2 of the guidelines for considering impact on existing buildings are summarised as follows:

- (i) Is the separation distance greater than three times the height of the new building above the centre of the main window? In such cases the loss of light will be small. If a lesser separation distance is proposed further assessment is required.

(ii) Does the new development subtend an angle greater than 25° to the horizontal measured from the centre line of the lowest window to a main living room? If it does further assessment is required.

(iii) Is the Vertical Sky Component (VSC) $>27\%$ for any main window? If VSC is $>27\%$ then enough skylight should still be reaching the window of the existing building. Any reduction below this level should be kept to a minimum.

(iv) Is the VSC <0.8 of the value before? The BRE guidance states that if VSC with the new development in place is both $<27\%$ and <0.8 times its former value, occupants of the existing building will notice the reduction in the amount of skylight.

(v) In the room impacted, is area of working plan which can see the sky less than 0.8 the value of before? (i.e., if 'yes' daylighting is likely to be significantly affected). Where room layouts are known, the impact on daylight distribution in the existing building can be assessed.

10.32.2. The tests above are a general guide only and the BRE guidance states that they need to be applied flexibly and sensibly. The document states that all figures/targets are intended to aid designers in achieving maximum sunlight/daylight for future residents and to mitigate the worst of the potential impacts for existing residents. It is noted that there is likely to be instances where judgement and balance of considerations apply.

10.32.3. Section 7.0 of the "Daylight, Sunlight and Overshadowing study" provides an assessment of those 20 dwellings, existing and proposed, where it is considered the proposal may have a potential impact on the sunlight/daylight. I am satisfied that the VSC assessment has been targeted to neighbouring windows / rooms / dwellings that are at the most challenging locations and demonstrate the worst-case scenario.

(1) No. 1 Enniskerry Demesne: Points tested have VSC $>$ than 27% which exceed the BRE recommendations.

(2) No. 2 Enniskerry Demesne: Points tested have VSC $>$ than 27% or not less than 0.8 times their former value.

(3) No. 3 Enniskerry Demesne: Points tested have VSC $>$ than 27% or not less than 0.8 times their former value.

- (4) No. 4 Enniskerry Demesne: Points tested have VSC > than 27% which exceed the BRE recommendations.
- (5) No. 10 Enniskerry Demesne: Points tested have VSC > than 27% or not less than 0.8 times their former value.
- (6) No. 9 Enniskerry Demesne: Points tested have VSC > than 27% or not less than 0.8 times their former value.
- (7) No. 14 Enniskerry Demesne: Points tested have VSC > than 27% which exceed the BRE recommendations.
- (8) Pine Heights: Points tested have VSC > than 27% which exceed the BRE recommendations.
- (9) Tinnabeg: Points tested have VSC > than 27% which exceed the BRE recommendations.
- (10) The Lodge: Points tested have VSC > than 27% which exceed the BRE recommendations.
- (11) No 11. Powerscourt Estate: Points tested have VSC > than 27% which exceed the BRE recommendations.
- (12) No. 12 Powerscourt Estate: Room No. 1 has an impact greater than 27% (34%). The study states this in one of 3 light sources into this space and it will continue to receive adequate sunlight. Other points tested have VSC > than 27% or not less than 0.8 times their former value.
- (13) No 13 Powerscourt Estate: Room No. 1 has an impact greater than 27% (61%). The study states this in one of 3 light sources into this space and it will continue to receive adequate sunlight. Other points tested have VSC > than 27% or not less than 0.8 times their former value.
- (14) No 14 Powerscourt Estate: Points tested have VSC > than 27% or not less than 0.8 times their former value.
- (15) No. 22 Powerscourt Estate: Points tested have VSC > than 27% or not less than 0.8 times their former value.
- (16) No. 23 Powerscourt Estate: Points tested have VSC > than 27% or not less than 0.8 times their former value.

(17) No. 24 Powerscourt Estate: Points tested have VSC> than 27% or not less than 0.8 times their former value.

(18) No. 25 Powerscourt Estate: Points tested have VSC> than 27% or not less than 0.8 times their former value.

(19) No. 26 Powerscourt Estate: Points tested have VSC> than 27% or not less than 0.8 times their former value.

(20) No. 27 Powerscourt Estate: Points tested have VSC> than 27% or not less than 0.8 times their former value.

10.32.4. The VSC for 99% of those windows had values greater than 27% or not less than 0.8 times their former value. The study notes two points will recover less than 27% change and not within the BRE Guidance. It is noted that this window is one of three light sources into the space, the other two into the space (No. 12 & 13 Powerscourt Estate, permitted under Reg Ref 19/871) and will have sufficient light. I consider this is acceptable and that room will not be negatively impacted by the proposed development.

10.32.5. Section 7.0 of the “Daylight, Sunlight and Overshadowing study” provides an assessment of the Annual Probable Sunlit Hours (APSH) on the same dwellings. This relates to the total probable sunlight hours into the interior. The same receptors point of the 20 dwellings were tested with the majority having an annual value greater than 25%, a winter value greater than 5% and the proposed value greater than 80% of the existing value. Of those points which were out with the criteria for APSH they were classified as either not being a living area or situated to the south of possible obstructions. A third-party submission has raised the results of the APSH for Pine Heights (Section 8.3). During winter the reference points 1, 2, 3 and 4 are less than 80% (58%, 55%, 54% and 75%) of the existing value and therefore do not comply with the BRE guidelines. The criteria in Section 8.1.1 of the study notes those APSH values should be applied to all main living rooms of dwellings and that kitchens and bedrooms are less important. Floor plans were not available for existing dwellings and therefore the report undertook an analysis of all windows facing the proposed development. It is possible that these windows are for bedroom and then the APSH values would not be critical although care not to remove all sunlight should be given. This aside, I note those APSH meet the BRE Guidance annually as all

windows where over the 80%. Section 3.2 of the BRE guidance notes that if the window point can receive more than one quarter of the APSH, including at least 5% of APSH in the winter months then the room should still receive enough sunlight. I note those VSC points for Pine Heights where > than 27% which exceed the BRE recommendations. To this end, I do not consider the overall proposed development should have a significant negative impact on the sunlight/ daylight into Pine Heights.

10.33. Loss of Sunlight/Overshadowing

10.33.1. The “Daylight, Sunlight and Overshadowing study” submitted with the application lists the potential sensitive receptors as:

- Enniskerry Demense,
- Pineheights/ Tinnabeg
- Powerscourt National School,
- Powerscourt Estates (Reg Ref 19/871).

10.33.2. I consider the identification of these as the only potential sensitive receptors acceptable.

10.33.3. The shadow analysis considers the worst-case scenarios for December (Winter Solstice), March (Equinox) and June (Summer Solstice). The overshadowing modelling illustrates the following:

- Minimal amount of overshadowing during the winter months from the existing trees along the Cookstown Road, on the properties to the north (Enniskerry Demesne),
- No additional shading visible from the proposed development on the Pineheights/Tinnabeg dwellings,
- No additional shading visible from the proposed development on the existing school,
- Minimal additional shadowing on the dwellings to the east in the proposed Powerscourt Estate (Reg Ref 19/871) in the morning of March and December.

10.33.4. Having regard to the orientation of the buildings and the duration of overshadowing on those Powerscourt estate during the morning, I do not consider the proposal will have a significant negative impact on the residential amenity of the future occupants. The VSC targets can mostly comply with BRE guidance or have alternative light sources as stated above.

10.33.5. All those amenity areas associated with the sensitive receptors were assessed. The BRE guidance states that at least half of a garden or amenity area should receive at least 2 hrs of sunlight on the 21st of March. Of those receptors assessed, the sunlight into No 11 & No 12 Enniskerry Demesne would have a minor change to the sunlight received into the amenity space although would be over 50% of both gardens would receive over 2hrs of sunlight and therefore comply with the BRE guidance.

10.34. Conclusion

10.34.1. The level of change to ADF to ground level, alterations to topography and change to boundary treatment are addressed in the EIAR. I have concluded that the alterations to the landscape and the proposed construction works would not have a significant negative impact on the residential amenity of those occupants in the vicinity, subject to mitigation measures. The design and layout of the scheme in conjunction with alterations to the site will not cause any overburden on the existing properties. I am satisfied that the applicant's "Daylight, Sunlight and Overshadowing study" provides a robust assessment of the impact on the sunlight/daylight of adjoining properties as set out in set out in the BRE document "Site Layout and Planning for Daylight and Sunlight – a Guide to Good Practice" 2011. I also accept that applicant's arguments windows which are less than the recommendation will receive adequate sunlight from other light sources.

Impact on Powerscourt National School

10.35. A submission was received from the principal of the Powerscourt national school, located to the west of the site. The issue of expansion into the CE designated lands has been discussed in detail above. I have concluded that the CE zoning is not solely reserved for expansion of the school and location of the creche beside the compliments the education use and connects well via a new, upgrade pedestrian access.

- 10.36. The Daylight, Sunlight and Overshadowing study” notes no observable effect on sunlight received in the amenity area of the national school. The impact on VSC is minimal and all points tested have VSC > than 27% or not less than 0.8 times their former value.
- 10.37. In relation to overlooking, the closest building is a creche, c.45m to the east of the school building. No dwellings are located along the edge of the school site and as such there will be no overlooking into any amenity space.
- 10.38. I do not consider the proposed development will have any significant negative impact on the setting of the school. In relation to construction impact, the EIAR and the CEMP include a range of mitigation measures which will prevent any negative impact from construction activities such as dust, construction traffic etc.

Overview of Material Contravention Issues

10.39. A Statement of Material Contravention accompanied the application. It is requested that the Board assess the application under Section 37 (2) (b) of the PDA 2000, as it is considered the proposed development represented a material contravention of the Bray Municipal District LAP and/or the Wicklow County Development Plan 2016-2022 based on the following:

- AA3: Density and no of units (core strategy and Objective HD5)
- Objective HD13: Apartments
- AA3: Voluntary/sheltered housing (potentially)

AA3: Density and no of units (Core Strategy and Objective HD5)

- 10.40. The density of 31.9 units per ha exceeds the maximum density of the development objective for both New Residential (R20) and New Residential Rural Fringe (R10) which is 20 uph and 10 uph respectively. The 165 no proposed units, in addition to the permitted 27 on lands to the west (Reg Ref 19/871) will provide 192 no dwellings which exceeds the dwelling allocation of 105 in both Table 3.2 of the LAP and the criteria for development on AA3 lands.
- 10.41. As stated above in my assessment on the quantum of development and density proposed, the increased density to 31.9 dwelling per ha and the proposed 165 no. dwellings on the site are justified having regard to the location of the site on the edge

of Enniskerry, located beside a national school and with good public transport links to Dublin City Centre. In addition, the proposed development will enhance the connectivity and permeability from the site into Enniskerry centre.

10.42. The grant of permission under Section 37 (2) (b) (i) and (ii) is justified having regard to the strategic importance of increasing housing at appropriate locations and the requirement to apply the appropriate densities on edge of centre sites which support compact growth in line with the provision of infrastructure as specified in the Sustainable Residential Guidelines and SPPR 4 of the Building Height Guidelines.

Objective HD13: Apartments

10.43. The inclusion of 28 no apartments on a site, not within 10 mins of a light rail or train station is considered a material contravention of Objective HD13. The proposed apartments are considered justified under Section 37 (2) (b) ((ii) and (iii). In relation to Section 37 (2) (ii) there are conflicting objectives in the development plan HD3 and HD13. In relation to Section 37 (2) (iii), the absence of a range and mix of typology would not provide compliance with Sustainable Residential Development in Urban Areas (SRDUA) and the Design Standards for New Apartments Guidelines for Planning Authorities (2018) (Section 2.4) or SPPR 4 of the Urban Development

AA3: Voluntary/sheltered housing (potentially)

10.44. The applicant's Statement of Material Contravention does not consider the proposal represents a material contravention of the criteria, although should the Board decide that it does a material contravention is justified. As stated in my assessment above, I consider the inclusion of 16 no. dwellings on c.0.2ha of lands proposed for Part V does not comply with the criteria for development on AA3 as stated in the LAP or the supporting information contained in the agreed action area plan. Having regard to report of the Housing Section and the information contained in the Statement of Material Contravention and the information contained in the S28 guidelines for Part V of the Planning and Development Act, 2000, Building Height Guidelines and the Sustainable Residential Development in Urban Areas, I consider there is justification for the Board to materially contravene the criteria for development on AA3 lands under Section 37 (2) (b) (iii) of the Act, as amended.

Objective RD6/ Size of Housing Estate

10.45. The PA and a significant number of third-party submissions raised the issue of compliance with Objective RD6 which requires for any housing estate over 60 units, there should be *“a number of smaller ‘estates’, which shall be differentiated from each other by the use of materially different design themes”*. As stated above, I do not consider the proposal materially contravenes this objective, in so far as 5-character areas have been included and a condition requiring external material changes can ensure compliance with the requirement for *“materially different design themes”* and can be reasonably included as a condition on any grant of permission.

Chief Executive (C.E) Recommendation

10.46. Wicklow County Council Chief Executive’s Report recommended that the proposal be refused for the proposed development of 165 no. residential units, a crèche and ancillary works for 3 no. reasons as listed below:

1. The proposed development would materially contravene the objectives for these lands as set out in the Bray Municipal District Local Area Plan 2018 as the proposed scheme fails to meet the following criteria set out for the development of the lands within Action Area 3 Cookstown:
 - a) *A maximum of 105 housing units may be provided in this action area, with density not exceeding 10/ha on the lands zoned R10, and the remainder may be developed at a higher density but not exceeding 20/ha.*
 - b) *A minimum area of 0.4ha shall be provided for voluntary/sheltered housing, of a type to be agreed within the Local Authority, as part of any Part V obligations under the Wicklow Housing Strategy. Permission will not be considered for private housing until sufficient progress has been made on this element.*

To allow this development to proceed outside the parameters of the Action Area Plan would be contrary to the objectives of the Bray Municipal District Local Area Plan 2018 and would be contrary to proper planning and sustainable development.

2. The proposed development would materially contravene the development-zoning objectives of the Bray Municipal District Local Area Plan 2018 because:
 - a) *The density of the proposed development exceeds the maximum permitted density on both the R10 and R20 residential zonings*
 - b) *The proposal includes for the provision of a commercial privately owned/operated childcare facility on lands zoned for Community and Education.*
3. The proposed development would result in a serious traffic hazard because it is considered that the applicants have failed to demonstrate that the local road network serving the site is adequate or is to be upgraded to a sufficient standard to cater for the volume of traffic that would be generated by the proposed development.

10.47. In relation to the criteria listed for development on lands in the Area Action Plan 3 Cookstown, my assessment above concluded that a material contravention of the development plan under Section 37 (2) (b) was justified for both the quantum of development, density and the requirement for 0.4ha of lands for sheltered/voluntary housing was justified. I have had regard to the national guidance and section 28 guidance on the delivery of housing at appropriate locations, supported by good urban design and a range and mix of tenures. I have concluded that the density proposed is appropriate to support the efficient use of lands on an edge of centre location within the settlement of Enniskerry, the proposed quantum of development would not contravene the core strategy and the Part V proposal is sufficient to ensure the delivery of social and affordable housing on the site and ensure social integration in line with national guidance.

10.48. In relation to the contravention of the development plan zoning objectives for the Residential Zoned lands, I refer the Board to my assessment above. The assessment on the principle of development concluded that, in my opinion, those development objectives relating to both the R10, New Residential Rural Fringe and R20 New Residential land use zonings may be contravened, and the proposed development is not precluded under Section 9 (6) (b) of the Planning and Development (Housing) and Residential Tenancies Act 2016.

10.49. In relation to the contravention of the CE zoned lands, I refer the Board to my assessment above which concludes that although childcare is not specifically listed in the permissible uses for CE lands, that caveat attached allows other uses which *“enhance, complement, are ancillary to, or neutral to the zoning objective”*. Having regard to the classification of a crèche as social infrastructure and the location of the crèche adjacent to a school, it is considered the use is appropriate and the location acceptable within CE zoned lands. I have concluded that the proposal is not in contravention to the CE zoned lands and is not precluded under Section 9 (6) (b) of the Planning and Development (Housing) and Residential Tenancies Act 2016.

10.50. In relation to the traffic hazard, the report of the PA considered the current L1020 was substandard although I consider the upgrade of works to the Cookstown Road along the school and into the site is sufficient and any upgrade east of the site would be considered unreasonable. The report of the Traffic Section considered further junctions should have been assessed, exact details were not included. The Board will note the EIA assessed the impact on the Traffic and Transport and concluded the proposed development would not result in a serious traffic hazard. In concluding no significant negative impact, I considered the expert transport analysis submitted which assessed the three closest junctions and concluded that the junctions would operate at 51% capacity, at the worst-case scenario, during the design year.

11.0 Environmental Impact Assessment

11.1. Introduction

11.1.1. This section sets out an Environmental Impact Assessment (EIA) of the proposed project. The development provides for 165 residential units, an access road and creche facility on an area of 6.27 ha. The site is in the settlement of Enniskerry within the area of Wicklow County Council.

11.1.2. The EIAR comprises a non-technical summary, a main volume and supporting appendices. Chapter 1 outlines the project team and their qualifications and the introduction to each chapter describes the expertise of those involved in the preparation of the EIAR. Chapter 16 of the main volume provides a summary of the mitigation and monitoring measures described throughout the EIAR.

11.1.3. As is required under Article 3(1) of the amending Directive, the EIAR describes and assesses the direct and indirect significant effects of the project on the following factors: (a) population and human health; (b) biodiversity with particular attention to the species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC; (c) land, soil, water, air and climate; (d) material assets, cultural heritage and the landscape. It also considers the interaction between the factors referred to in points (a) to (d). Article 3(2) includes a requirement that the expected effects derived from the vulnerability of the project to major accidents and / or disasters that are relevant to the project concerned are considered. I am satisfied that the information contained in the EIAR has been prepared by competent experts and complies with article 94 of the Planning and Development Regulations 2000, as amended. The EIAR would also comply with the provisions of Article 5 of the EIA Directive 2014. This EIA has had regard to the information submitted with the application, including the EIAR, and to the submissions received from the PA, the prescribed bodies and members of the public which are summarised in sections above.

11.2. **Vulnerability of Project to Major Accidents and/or Disaster**

The site consists of a mix of residential, agricultural, educational, and open space and does not include any works which would pose a risk to human health and safety. Risk of Major Accidents and/or Disasters has been considered in the during the construction and operational phases and dealt with through the Construction and Environmental Management Plan (CEMP). Compliance with the Building Control Regulations and /or other health and safety legislation will be addressed during the construction and operation.

Chapter 14 provides an analysis of the risk management and hazard identification on the site. Interactions with most other factors has been identified in Table 15.1 and any potential impacts are assessed in the EIA.

I do not consider the proposed development alone or in combination with any other plans or projects have any major risk for accident or disaster.

11.3. **Alternatives**

11.3.1. Chapter 2 (Section 2.17) of the EIAR includes a background of the overall development and the construction management employed within the term of

development. It is envisaged the timescale for construction works will range from between 3 years and up to 5 years.

11.3.2. Three reasonable alternative solutions have been assessed as summarised below:

1. Alternative locations

The zoning for the site as residential use and the “do-nothing” approach is not considered a sustainable or efficient use of zoned lands. Although it is acknowledged the proposed units exceed the LAP quantum, the SEA and AA screening of the LAP have been considered and the site is selected for residential.

2. Alternative uses

The provision of a residential and creche on Residential zoned lands and Community and Education zoned lands is considered the best approach with open space on the designated open space areas.

3. Alternative Designs

11.3.3. Three design options were included. The first alternative related to the existing permission (PL27.246401 Reg Ref 14/1704) plus expansion. This due to expire on the 17th of November 2021 and is not considered a viable option as it only relates to 26 no dwellings on half of the site (c. 2.75ha) and is considered piecemeal development. The undertaking of the permitted development only with a density of 9.5 units per ha is contrary to the strategic guidance and not in line with the promotion of compact urban form. The second alternative relates to that design presented at the pre application stage although considering the ABP opinion in relation to the interface along Cookstown and upgrades required for pedestrians, it was not considered appropriate.

11.3.4. The final design, and preferred alternative had regard to the design options, the pre planning meetings and was informed by environmental issues. The final preferred option has a positive or neutral impact on the environmental considerations.

11.3.5. I consider the options presented are viable and consider the proposed preferred alternative is deemed the most appropriate having regard to the environmental issues, as further detailed below.

11.4. Likely Significant Direct and Indirect Effects

11.4.1. The likely significant indirect effects of the development are considered under the headings below which follow the order of the factors set out in Article 3 of the EIA Directive 2014/52/EU:

- population and human health;
- biodiversity, with particular attention to species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC;
- land, soil, water, air and climate;
- material assets, cultural heritage and the landscape.

11.4.2. It also considers the interaction between the factors referred to in points (a) to (d). Article 3(2) includes a requirement that the expected effects derived from the vulnerability of the project to major accidents and / or disasters that are relevant to the project concerned are considered.

11.5. Population and human health

Introduction

11.5.1. Chapter 3 deals with population and human health. In terms of impacts, after mitigation, there are no significant impacts anticipated during the construction phase, with impacts also being temporary in nature. During operational phase, it is predicted that there will be no adverse impact on human health, and there will be no adverse impact on social, economic or environmental living conditions as a result of the proposed development. Increased economic activity in the area is seen as a positive impact

11.5.2. The site is located on the southern edge of the settlement of Enniskerry. This settlement forms part of the Bray Municipal District LAP. Reference to the Strategic Environmental Assessment (SEA) which accompanied **the Bray Municipal District LAP** notes the residential zoning, the Core Strategy, and the requirement to support additional housing. The increase in density is not considered to materially change the conclusions of the SEA relating to the LAP. A number of third-party observations have raised concern in relation to this issue, where it is considered the increase density will undermine the SEA of the LAP. I have discussed this issue in detail in my

assessment above and note the population target for Enniskerry, up to 2025, is 2,401. The statement of material contravention includes an analysis of extant permissions, only 59 no. dwellings have been permitted in Enniskerry, substantially below the growth targets in the CDP. The PA report states the proposed development (in conjunction with approval under Reg Ref 19//871) would deliver 192 units c.40% of the housing stock for the settlement). Therefore, having regard to the absence of any recent significant housing provision in Enniskerry, the housing allocation in the core strategy has not been exceeded and I am of the opinion that the principles of the SEA remain.

Impacts on population and human health

11.5.3. The delivery of housing will be a long-term positive impact and will support the policies in the LAP in regard to increased population in Enniskerry. The short-term **impacts** from the construction phase include the increase in employment which is considered positive with some temporary imperceptible impacts on the current local population from nuisances such as noise, traffic, vibration etc. The long-term impacts from the development of the site relate to the delivery of housing, the increase of population which in turn will see an increase in expenditure and employment in the vicinity.

Mitigation

11.5.4. Mitigation measures detailed in Section 3.6 of the EIA and included in the CEMP relating to construction activities, are considered sufficient to prevent any negative impact on the residential amenities of those adjoining residents. No mitigation measures relating to the operation phase are necessary.

Conclusion on population and human health

11.5.5. The information presented in the EAIR and the supporting documentation is sufficient, in my opinion, to undertake a detailed assessment on the impact of the proposed development on population and human health. It can therefore be concluded that, subject to the implementation of the measures described in the EIAR, the proposed development would not be likely to have a significant effect on the population and human health. With regard to cumulative impacts, no significant cumulative impacts anticipated. I have considered all of the written submissions

made in relation to population and human health and the relevant contents of the file including the EIAR.

11.6. **Biodiversity with particular attention to species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC**

Introduction

11.6.1. Chapter 4 deals with biodiversity. The application is also accompanied by a Bat Impact Report, Tree Survey and Screening for Appropriate A number of third-party submissions have raised the impact of the proposed development on the biodiversity of the site and surrounding area. Specific reference is made to the loss of trees, impact to the Lovers Leap Lane along the south, the bat and tree survey submitted and the location of the site close to the Powerscourt Woodland Proposed National Heritage Area (pNHA) and the Dargle River Valley pNHA.

11.6.2. Figure 4.1 of the EIAR illustrates the main areas of biological interest in the vicinity as follows:

- Dargle River and Dargle River Valley pNHA to the south of the site,
- The Glencullen River to the north of the site,
- Powerscourt Woodland p NHA,
- Knocksink Wood SAC/ p NHA.

11.6.3. The main features of these sites are noted, and I note the location of other sites in the vicinity such as the Glen of the Downs Nature Reserve and the Knocksink Wood Nature Reserve. The site is not directly linked to any European or national designated site and much of the third-party observations in relation to the impact on biodiversity refer to the removal of trees on site, further addressed below.

Water

11.6.4. The Glencullen River (also known as the Cookstown River) and the Dargle River form part of the same **river system** the status of which is “good” under the Water Framework Directive (WFD), until as far as the M11 motorway. In terms of impact on the river network the EIAR notes a new surface water drainage network based upon SuDS principles with no potential impact during operation. During construction mitigation measures included to prevent any negative impacts on the River Dargle

are listed in the CEMP and include, *inter alia*, storage of dangerous substances in bunded areas and ensuring the silt-laden water does not run-off the site. Other run-off control measures include dewatering only where necessary and if so, pumped to a soakaway. Areas around the site are to be sealed to prevent sedimentation or erosion and inspected regularly. No significant impact on any adjoining watercourse is identified having regard to mitigation measures included.

Appropriate Assessment

11.6.5. A separate screening for **Appropriate Assessment** has been undertaken below although it is noted that there are no habitats or species directly linked between this site or any European Site. In terms of potential pathways, the connection via any groundwater source has been excluded having regard to the Conservation Objectives of the closest SACs (Knocksick Woods SAC and Ballyman Glen SAC), the characteristics of the site and the scale and nature of the proposed works. The interaction between these European sites, works to land and soils and the hydrological impacts are further discussed in the main assessment above, and it has been concluded that the proposed development would have not significant negative impact on the groundwater on the site or the surrounding area.

Trees and Hedgerows

11.6.6. Section 4.6.1 of the EIAR notes a loss of c. 400m of **higher significance hedgerow and treeline habitat** of which may have significance for bats, further detailed above. A Cookstown Tree Impacts Plan has informed the EIAR. I note other documentation relating to the trees which accompanied the application include:

- Arboricultural Report
- Cookstown Tree Protection Plan (to be read in conjunction with the Arboricultural Method Statement at Appendix 1 of the associated Arboricultural Report)
- Cookstown Tree Constraints Plan

11.6.7. A submission from the Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media (Development Applications Unit DAU) refers to the loss of 400m of higher significant hedgerow and treeline habitat which will result in the loss of foraging for bat species and nesting habitat for the bird species. The planting of non-native

species is noted and not considered appropriate as is the absence of any definite length of planting. The landscaping scheme should be amended to provide for native, like-for like hedgerow (c.400m) in order to mitigate for the loss of higher significance hedgerow.

11.6.8. I note the main hedgerow removal is located along the west of the site, overlapping into the adjoining site for development, and the north, along the Cookstown Road, to accommodate the entrance. A full survey of all trees and hedgerows is presented in the above documentation and the plans and particulars clearly states those trees which are proposed to be removed. The tree loss breakdown for the proposed development will be-

- 0 Category “B” items
- 7 category “C” items
- 6 category “U” trees (of 16 Category “U” items recorded across review area).

The hedgerow removal will be:

- Circa 80% of Hedge 3 Category C)
- Circa 45% Of Hedge 4 (category U)

11.6.9. No category B trees will be removed, and the tree survey notes a total of 13 trees/groups (inclusive of hedgerow groups) to be removed. All other trees and hedgerows will be protected during construction using appropriate measures and carefully monitored.

11.6.10. The **landscaping scheme** is integrated into Figure 4.4 of the EIAR. The application is also accompanied by a Landscaping Report, Masterplan and boundary treatment plan. These landscaping details provide an overview of the planting scheme proposed on the site and the use of species. These plans and particulars do not specifically relate to the tree and hedgerow surveys previously detailed although they do acknowledge the location of the existing native hedgerow planting to be retained. The landscaping plan includes the general area proposed for planting with examples of species to be used for planting. I consider the details submitted sufficient to understand the overall impact from this proposal. As stated above, the removal of trees and hedgerows is mostly along the western boundary and in relation to the impact on greater biodiversity I consider, relative to the retention of the

remaining trees and hedgerows the impact has been minimised. The zoning of the lands as residential and designated as part of an overall wider scheme is highlighted in this instance and there would be an assumption from these designations in the LAP that some trees and hedgerow removal would be necessary to accommodate these works. I note the comments from the DAU on the use of some non-native species in the planting scheme and the absence of the exact length of planting with specific reference to the impact bat species and nesting habitat for bird species. In this regard I note the landscaping plan can be read in conjunction with the Cookstown Tree Impacts Plan and trees survey, which clearly indicates those trees and hedgerows to be removed and the substantial retention of trees and hedgerows around the boundaries of the site. I note the landscaping masterplan illustrates general areas for planting I consider the gaps in planting can be addressed through additional planting along the western boundary, mostly along the side and rear gardens of dwellings. The proposed boundary treatment along the west of the site ranges from 1.2 timber post along the open space areas to 2m high concrete post and timber panel at the side of gardens. I do not consider either of these boundary treatments would prevent additional planting. In relation to the impact on bats, further details are provided below.

Impact on trees and hedgerows

- 11.6.11. The retention of a significant portion of trees and hedgerows around the boundary of the site and the enhanced trees planting throughout the site will be a long-term positive impact. The removal of the tree and hedgerow along the west will be negative although only short-term.

Mitigation for trees and hedgerows

- 11.6.12. Therefore, I consider a condition on any grant of permission requiring additional planting along western boundary and the replacement of any non-native species to native species can be reasonably included. The impact on trees and hedgerows would be short term and mitigated by conditions for additional planting, and as such would not constitute a significant adverse impact

Bats

- 11.6.13. In relation to the impact on **Bats**, a Bat Assessment accompanied the application. Information from this assessment has been integrated into this

biodiversity chapter where appropriate. An observation received notes reference to tree surveys not contained on the planning file and therefore not available for the public. In addition, the methodology for undertaking the bat surveys is questioned, in particular the recommendation from national guidance¹.

11.6.14. In relation to the methodology utilised for the bat assessment, the bibliography notes a plethora of documentation used for the assessment, *inter alia*, up to date national guidance for bat mitigation and conservation and the specific reference in the third-party submission. Reference to both European and national legislation is provided, and the information collected in the assessment has regard to the best available national guidance as listed in Section 1.2, including the documentation listed in the submission. Data collection was in the form of daytime inspections and walkabout surveys, tree Potential Bat Roost (PBRs) inspections and dusk and dawn bat surveys using bat detectors surveys. The timing of surveys was recorded as follows:

- 2017- 1st and 2nd of September
- 2019- 26th and 29th of August
- 2020- 23rd and 26th of May.

11.6.15. Compliance with surveys in line with national guidelines, in particular the timing of trees surveys, is questioned. The third-party raised the use of only one tree survey in May 2020 whilst the bat assessment notes two daytime tree surveys in 2019 and 2020 (baseline trees survey August 2019). The PBR Inspection in Section 2.1.2 of this assessment classified the trees and used these classifications in the assessment, further detailed below. In relation to the survey methods, I note Section 5.2 of the national guidelines states that it is “*for the consultant to decide on the level of survey required (taking these guidelines into account)*”. Site specific factors should be considered and both bat detectors and emergence surveys can be utilised. Table 5.2 of the national guidance states that the survey of trees in the summer can difficult. Having regard to the information contained in the national guidance I consider the bat assessment could be undertaken during of a range of seasons,

¹ Kelleher, C. & Marnell, F. (2006) Bat Mitigation Guidelines for Ireland. Irish Wildlife Manual, No. 25. National Parks and Wildlife Service, Department of Environment, Heritage and Local Government, Dublin, Ireland.

those of which had been determined as optimal by the expert. I note the information contained in the survey and the conditions on the site and I consider the survey was optimal for this site. I consider the methodology appropriate to comply with the national guidance.

11.6.16. The bat assessment refers to three surveys and acknowledges the bat surveys between 2017- 2020. These surveys acknowledge 34 trees were inspected in August 2019 with 18 identified as having a higher Potential Bat Roost (PBR) value for bats. The author of the report clearly links the information from the tree survey to the surveys which informed the Bat assessment. Table 7, and the associated description, details those trees which would be removed and therefore conflict with 10 PBR trees. Whilst I note the tagging of these trees is linked to a previous tree survey, the author of the bat assessment based the impact assessment on an “updated tree survey”, which was submitted with the application and available for public inspection along with other documents associated with the application, which I consider reasonable. For example, the removal of hedge 3 from the Cookstown Tree Impacts plan is acknowledged in the bat assessment as the hedgerow along the west, 2 PBR trees are to be removed along this section (noted in the bat assessment as Tree Tag 32 and 34, Ash). I can conclude from the Cookstown Tree Impacts Plan that c. 5 no trees are to be removed along this boundary of which 2 are defined as Category B trees and these trees are located in an area for substantial planting, as per the landscaping plan.

Mitigation for impact on bats

11.7. Mitigation measures in Section 5.3.4 of the bat assessment include the replanting of “like for like” for 10 no. PBRs with a bat box scheme in place prior to the removal of any trees. Other mitigation measures listed in Section 5.3 of the assessment include the use of a detailed lighting plan. Mitigation measures have been replicated into the EIAR. Those areas of trees and hedgerows which were identified as the main foraging areas (Fig 3 of the bat assessment) are in areas where most trees and hedgerows are to be retained.

Impact on bats

11.8. Having regard to the minimisation of potential disturbance and mitigation measures such as additional planting noted in my assessment above in relation to the planting

of native species, I consider the impact on the foraging will be moderate and short term, and that there will be no significant long-term impact.

11.9. In relation to the information contained in the bat assessment, I note the expertise of the author of the report (a licenced bat specialist) and the extent of supporting information for the tree removal and landscaping plan. No expert opinion has been submitted to contradict the findings of the submitted bat assessment and as such I am satisfied that its accuracy stands. It is my opinion that the documentation provided is sufficient to undertake an assessment of any impact of the proposed development on bat activity on the site.

11.10. The impact on bats will not be significant and will only be short term and mitigated by measures identified in the bat survey, EIAR and CEMP such as the timing, lighting proposed, bat boxes and landscaping, for example.

Conclusion re. Biodiversity

11.11. The information presented in the EIAR and the supporting documentation is sufficient, in my opinion, to undertake a detailed assessment on the impact of the proposed development on biodiversity. It can therefore be concluded that, subject to the implementation of the measures described in the EIAR, the proposed development would not be likely to have a significant effect on water, trees and hedgerows, bats or any other biodiversity. With regard to cumulative impacts, no significant cumulative impacts on the biodiversity are anticipated. I have considered all of the written submissions made in relation to water and the relevant contents of the file including the EIAR. I am satisfied with the level of information submitted; any issues of a technical nature can be addressed by condition as necessary.

11.12. **Land and soil**

Introduction

11.12.1. Chapter 5.0 provides an assessment of the impact on land and soil. The **topography** of the site varies considerably and the site slopes down from the south (+110m O.D max) to the south (+101m O.D). Two site investigations were carried out in 2014 and 2019 (using boreholes and soakaway test). Bedrock was not encountered at 7.5 m below ground level and no groundwater was observed. The site is located on a locally important gravel aquifer and the GSI data presented

classified the vulnerability of the groundwater as High. The flow of the ground water is north, towards the Cookstown River.

Impacts

- 11.12.2. This **site investigation** indicated the depth of the bedrock and groundwater as over 7.5m which indicates high permeability of sands and gravel. The recharge of groundwaters from surface water will remain similar due to the inclusion of a soakaway in the project design. This indicates that the groundwater recharge remains and there will be no significant negative impact.
- 11.12.3. The proposed development includes regrading of the site with c. 7,720m³ of topsoil excavated from the ground level and c. 13,793m³ of fill. Section 5.51 of the EIAR considered the likely impact of these works may be characterised as, permanent, slight impact on subsoil and groundwater. The submission from the IFI requires the reuse of materials on the site where possible.

Mitigation

- 11.12.4. **Mitigation** measures include the reuse of excavated materials where possible and other measures in the CEMP for controlling siltation, contamination and run-off are considered appropriate. I consider the surveys contained in the EIAR and accompanying plans and particulars present sufficient information to undertake an assessment on the land and soils and having regard to the depth of bedrock and groundwater levels, the reuse of excavated soils within the site and the design of the development I consider any significant negative impacts will be mitigated.

Conclusion

- 11.13. The information presented in the EAIR and the supporting documentation is sufficient, in my opinion, to undertake a detailed assessment on the impact of the proposed development on land and soils. It can therefore be concluded that, subject to the implementation of the measures described in the EIAR, the proposed development would not be likely to have a significant effect on the land or soils. With regard to cumulative impacts, no significant cumulative impacts anticipated. I have considered all of the written submissions made in relation to land and soils and the relevant contents of the file including the EIAR. I am satisfied with the level of

information submitted; any issues of a technical nature can be addressed by condition as necessary.

11.14. **Water (Hydrology & Hydrogeology)**

Introduction

- 11.14.1. Chapter 6 includes an assessment of the hydrological impacts of the proposed construction and operation with the likely hydrological impacts listed as erosion from subsoil and surface water during construction leading to negative impacts. Other impacts on surface water include pollution from construction activities. During operational phase contamination of surface and groundwater is listed as a potential of risk.

Surface Water

- 11.14.2. In relation to **surface water**, an existing 450mm diameter surface water pipe runs beneath the Enniskerry Road (R760), 500m to the west at a higher level. The Dargle River is located 50m to the south although having regard to the topography of the site the surface water flows north towards the Cookstown Road. The Glencullen River is 350m to the north and separated from the site by a road and housing estate. The proposal includes a new soakaway/ infiltration system along the north of the site to allow the surface water to follow the gravity on the site. SuDS measures include infiltration measures, permeable paving, swales and petrol interceptors. The top level in the soakaway for a 100yr storm + 20% climate change is integrated. The submission from the IFI considered there was an overreliance on “hard” engineering solutions, whereas the submission from the PA raised no issues with the surface water proposals, subject to the integration of the recommendations of the stormwater audit.
- 11.14.3. I note the topography of the site, the distance from the Glencullen River to the north, separated from the site by a road and a housing estate and the design of the surface water treatment, which includes mitigation measures including petrol interceptors and filtration systems in the soakaway, which I consider reasonable to prevent any impact on any waterbodies. I note the comments received from IFI and having regard to the topography of the site which does not flow towards the adjoining Dargle River, I consider the soakaway in combination with other SuDS features are acceptable.

Wastewater

11.14.4. In relation to **foul water**, a wastewater pumping station is located at the north east corner of the site, foul will drain by gravity and then be pumped to an existing 225mm foul sewer at the R760 sewer junction. The pumping station has been sized to accommodate the adjoining 27 no. houses (Reg Ref 19/871), the 14 houses in the estate to the north, Enniskerry Demesne and the permitted development adjoining this estate for 6 no houses (Reg Ref 16/976). This new pumping station will allow the decommissioning of the existing Enniskerry Demesne pumping station. The capacity of the wastewater treatment system was raised in a submission. I note the Irish Water submission does not raise the capacity of the wastewater treatment plant as having any capacity issues. The 2019 Annual Environmental Report² notes the plant capacity of 6,000 PE with a remaining capacity of 3,466 PE, therefore I consider there is sufficient capacity to treat the additional foul loading. The IW submission notes the decommissioning of the existing Enniskerry Demesne pumping station, outside the applicants red line. I do not consider this is a material consideration for the assessment of these works as the proposed development can adequately serviced by the pumping station and associated works proposed. In addition, Section 34 of the Planning Act, 2000, as amended, states that a person is not be entitled solely by reason of a permission to carry out any development by reason of a permission and the Board will note IW have requested a condition requiring a preconnection agreement with IW.

Groundwater

11.14.5. In relation to **groundwater**, the overall composition of the soil type has been detailed within Chapter 5, land and soil, and I consider there is an interaction with the groundwater. Under the requirements of the Water Framework Directive (WFD), the groundwater was classified as having an overall good status for water quality and quantity (2018). As noted above the site investigation works noted no groundwater was met at a depth of 7.5m, indicating a low water table. The Board will note the information within my AA Screening assessment has identified a potential pathway between the site and two European Sites (Knocksick Woods SAC and Ballyman Glen SAC) , via the groundwater hydrological link, although having regard to the

² https://www.water.ie/docs/aers/2019/D0088-01_2019_AER.pdf

topography of the site, the investigation works presented in the EIAR and the design details of the proposed development I can objectively conclude that the proposed development will have no significant negative impact on the conservation objectives of either SAC in relation to the impacts on the groundwater. I note Section 7.10 of the Construction & Environmental Management Plan (CEMP) states it is not anticipated that there will be any significant de-watering required on the site and Section 8.5.2 notes that dewatering measures will only be employed where necessary and for groundwater encountered during the construction phase, mitigation measures will include dewatering by pumping to a soakaway. Mitigation measures included in Section 6.6.2 of the EAIR in relation to the protection of the groundwater include the monitoring of pumping/ dewatering, control of sedimentation and the prevention of pollution, are associated with the protection of water during normal construction activities and not required as mitigation against impacts on any European Site.

Flooding

- 11.14.6. A **site-specific flood risk assessment** is included in the Civil Engineering Infrastructure Report. Several third-party submissions noted the flooding along the Cookstown Road during the winter periods and are concerned this proposal will exacerbate the problem. The site is located in Flood Zone C where the probability of flooding from rivers and the sea is low. The localised flooding along the Cookstown Road, beside the entrance to Summerhill House is referenced and it is proposed to install new road gullies along the edge of the road to alleviate these. In the unlikely event that there are any issues, the highest of the lowest FFL is +103.35 O.D whereas Cookstown River is at a level of +102.60m and the dwellings would not be at risk.

Impact on Water

- 11.14.7. Having regard to the design and servicing on the site any potential negative impact on surface or ground water will be minor short term and will occur during construction activities.

Mitigation for impact to water

- 11.14.8. Mitigation measures listed in Section 6.6.2 of the EIAR mostly relate to the implementation of best practice construction methods, further detailed in the CEMP.

These mitigation measures will prevent any negative impact on the surface or ground water.

Conclusion

11.15. The information presented in the EAIR and the supporting documentation is sufficient, in my opinion, to undertake a detailed assessment on the impact of the proposed development on hydrology and hydrogeology. It can therefore be concluded that, subject to the implementation of the measures described in the EIA, the proposed development would not be likely to have a significant effect on the hydrology and hydrogeology. With regard to cumulative impacts, no significant cumulative impacts anticipated. I have considered all of the written submissions made in relation to hydrology and hydrogeology and the relevant contents of the file including the EIA. I am satisfied with the level of information submitted; any issues of a technical nature can be addressed by condition as necessary.

11.16. **Air quality and climate change**

Introduction

11.16.1. Chapter 7 provides a background on the air quality and climate on the site. The current air quality is within applicable standards (Zone D) and Nitrogen Dioxide levels are well below the national average. The principle local **receptor** which could be impacted by changes to air quality and climate are defined as the adjoining school and residential developments to the north, east and northwest. The potential impacts will be mostly from the construction activities and increases in traffic movements. The design of the houses will comply with guidance L of the Irish Building Regulations where nearly zero energy building is required.

Impacts

11.16.2. In relation to the traffic the maximum increase of **traffic** at peak times is quantified at 130 movements. The TII guidelines for the treatment of Air Quality requires an air quality assessment for a range of scenarios of which the daily flow changes by 1,000 AADT or more is listed. The proposal will not generate this quantum therefore additional assessments are not required.

Mitigation

11.16.3. In relation to the construction activities, mitigation measures listed in the CEMP include the use of dust netting and site hoarding to prevent dust emissions on adjoining residential areas. Other measures include covering dusty stockpiles with tarpaulins, concrete cutting with a water dampening system etc. I consider these measures are reasonable to prevent any negative impacts.

Conclusion

11.16.4. The information presented in the EAIR and the supporting documentation is sufficient, in my opinion, to undertake a detailed assessment on the impact of the proposed development on air and climate. It can therefore be concluded that, subject to the implementation of the measures described in the EIAR, the proposed development would not be likely to have a significant effect on the air and climate. With regard to cumulative impacts, no significant cumulative impacts anticipated. I have considered all of the written submissions made in relation to air and climate and the relevant contents of the file including the EIAR. I am satisfied with the level of information submitted; any issues of a technical nature can be addressed by condition as necessary.

11.17. Noise and Vibrations

Introduction

11.17.1. Chapter 8 deals with the impact of noise and vibration on the site and the surrounding area. The **construction impact** assessment is based on the use of Noise Limit Criteria during different times of the day with the highest at 70d B(A), $L_{Aeq,1hr}$ during construction and 55 d B(A), $L_{Aeq,1hr}$ during the night, Sundays and Public Holidays.

11.17.2. In terms of operation impact assessment the EIAR concludes that traffic noise levels over 60 d B(A), $L_{Aeq,1hr}$ can be potentially intrusive. The 4. no baseline noise monitoring locations are at the school, the closest dwellings and along the south, adjoining the Lovers Leap walkway. The highest measurement of 87 d B(A), $L_{Aeq,1hr}$ is recorded outside the school. The operation of the site will not increase the noise levels of greater than existing recorded levels adjoining the site. The significance of the noise levels is considered to be imperceptible. Noise management measures will be undertaken during construction and noise monitoring will be undertaken at sensitive locations during the construction stage.

11.17.3. The same locations were used as baseline locations for assessing the impact of vibrations. The potential impact relates only to the construction activity and the mitigation measures include the use of low vibration tools, isolation of vibrating for example. These measures are also replicated in the CEMP. Vibration monitoring will be undertaken at adjacent properties when required.

Impact from noise and vibration

11.17.4. The impact on the surrounding area from both noise and vibration has been sufficiently addressed in the EIAR. The greatest impact on the receiving environment will be from the construction activities will be short term.

Mitigation measures for noise and vibrations

11.17.5. As stated above, the CEMP replicates the mitigation measures in the EIAR and having regard to the existing residential properties in the vicinity I consider a restriction on the hours of construction reasonable and included within any grant of permission.

Conclusion

11.17.6. The information presented in the EAIR and the supporting documentation is sufficient, in my opinion, to undertake a detailed assessment on the impact of the proposed development on noise and vibrations. It can therefore be concluded that, subject to the implementation of the measures described in the EIAR, the proposed development would not be likely to have a significant effect on the noise and vibrations. With regard to cumulative impacts, no significant cumulative impacts anticipated. I have considered all of the written submissions made in relation to noise and vibrations and the relevant contents of the file including the EIAR. I am satisfied with the level of information submitted; any issues of a technical nature can be addressed by condition as necessary.

11.18. Landscape and Visual

Introduction

11.18.1. Chapter 9 details the landscape and visual impacts and addresses the following visual receptors:

- Protected Views and Prospects,

- Local Amenity and Heritage,
- Local community views,
- Relevant local settlement nodes, and
- Major routes adjacent to the site.

11.18.2. A significant number of the observations received have raised concern in relation to the overall design of the proposal, the inclusion of the 3 storey duplex units and the impacts on the proposal on views of the Sugarloaf Mountain. The impact on the landscape designations and an area of outstanding natural beauty are considered significant.

11.18.3. The landscape category maps in the Wicklow CDP (10.13) illustrate the settlement of Enniskerry outside any of the Areas of Outstanding Natural Beauty (AONB) and Areas of High Amenity (AHA). I note the Glencree/ Glencullen AONB surrounds the settlement and due to the site's location on the southern edge of Enniskerry settlement the site would adjoin this landscaped designated area.

11.18.4. Section 9.3.7 of the EIAR notes a Protected View (No. 7) from the Cookstown Road towards the Sugarloaf Mountain. Policy NH52 of the CDP requires that those views and prospects are not obstructed from the identified vantage point or would the development form an obtrusive feature in the view.

11.18.5. I note the location of Sugarloaf Mountain to the south of the site, in the distance. Due to the upwardly sloping nature of the site, the mountain was not visible from the entrance of the site upon site inspection. The EIAR is accompanied by a visual impact, with 20 no viewpoints included. The proposed development and the adjoining development are illustrated in the photomontages which also integrate the main view of Sugar Loaf Mountain. The main spine road of the proposed development is used as a vista towards the Sugar loaf. Three storey duplex buildings are set away from the main spine, beside the eastern boundaries of the site and along the front, facing onto the Cookstown Road and beside the creche.

11.18.6. The EIAR uses available guidance from the EPA to assess the impact of the proposed development on the landscape with the sensitivity ranging from Very High to Negligible. The summary of the visual assessment notes the greatest impact on V

no. 7, from the Cookstown Road towards Sugar loaf Mountain during construction although in the long term this will be moderate and neutral.

11.18.7. In relation to level differences, the site slopes higher south and east of the site. As stated in Chpt 5 the proposed development will involve cut and fill of the site and the impact of this on the receiving environment has been previously assessed. Two retaining walls are proposed along the west of the site, where the crèche adjoins the school site and where the duplex units back onto the permitted development (Reg. Ref. 19/871) to the west. The site plan indicates that the FFL of those permitted to the north west of the site (FFL c.109m) will remain c. 3m greater than those proposed Block B2 duplex units (c. 107m). The highest of these lands along the north east of the site are to be increased by c. 2m. A third-party submission was received by the occupant of the dwelling located to the north east of the site regarding the impact of the 3 storey duplex units (Block C and D). The mature trees along the east of the site, within the adjoining landowner's property, are of such a depth and height that the proposed development would not be visible from the adjoining property. The submission considers these could be removed at any time. The assessment of the impact of the overall development has regard to the characteristic of the existing site and the proposal does not include any alterations to this boundary treatment. An overall assessment of the design and layout and the impact on residential amenity has been provided above. In relation to the impact on the landscape and the visual amenity, I do not consider the proposal will have a significant negative impact on the landscape or visual amenity due to the design and layout proposed

Impact on Landscape and Visual Amenity

11.18.8. The potential impact on those views towards Sugarloaf will be short term and only during the construction activities. There is potential for a long-term negative impact on the protected views on the site. The reprofiling of the site has a potential for a long-term negative impact.

Mitigation on Landscape and Visual Amenity

11.18.9. The scale of the proposal, the limited height and design of the scheme and integration of the central spine allows the retention of the protected view and mitigates against any long-term impacts. Any negative impact from the change in

profiling of the site will be mitigated by the reuse of soils, where possible, and the height of the FFL of the dwellings throughout the site (designed to prevent any overlooking or overbearing). The cumulative impact of the adjoining permitted development (Reg. Ref. 19/871) has been considered in the landscape assessment.

Conclusion

11.19. The information presented in the EAIR and the supporting documentation is sufficient, in my opinion, to undertake a detailed assessment on the impact of the proposed development on landscape and visual. It can therefore be concluded that, subject to the implementation of the measures described in the EIAR, the proposed development would not be likely to have a significant effect on the landscape and visual. With regard to cumulative impacts, no significant cumulative impacts anticipated. I have considered all of the written submissions made in relation to landscape and visual and the relevant contents of the file including the EIAR. I am satisfied with the level of information submitted; any issues of a technical nature can be addressed by condition as necessary.

11.20. Traffic and Transportation

Introduction

11.20.1. Chapter 10 deals with the traffic and transportation. A Road Engineering, Traffic & Transport Assessment also accompanied the application and some of the findings are incorporated into the EIAR.

11.20.2. The site is accessed from the Cookstown Road (L1020), to the north of the site, which radiates east from the R760, eventually joining the R117 (Bray road) which leads north onto the N11 and eventually the M50. The site is bound along the north, adjoining the Cookstown Road with mature trees and hedgerows. The proposed development includes one access from the Cookstown Road, additional pedestrian access beside the entrance and along the front of the school and the proposal includes an upgrade of the road from the Powerscourt National School to the west and connecting footpaths. A new pedestrian crossing is proposed along the front of the site, across the Cookstown Road.

11.20.3. The CE's submission recommends a refusal of permission as it was concerned the development would result in a serious traffic hazard. It was

considered the applicant has demonstrated the site is adequate or is upgraded to a sufficient standard to cater for the volume of traffic that would be generated by the proposed development. The submission of the notes the upgrades along the Cookstown Road and the internal layout. It is requested that level differences of the footpath outside the National school, details of the crossings, removal of steps into the development and increase in the width of the road from 5m to 5.5m. In addition, it is requested that a Road Safety Audit (RSA) Stage 2 & 3 are undertaken for the construction drawings and any improvements to the Cookstown Road. In relation to the Traffic Assessment/ Traffic Impact Assessment the PA submission queries the absence of any assessment of the junctions on the approach to and within the heart of the village.

11.20.4. Third-party **submissions** question the appropriateness of increased traffic at this location and consider the existing road network is insufficient to accommodate this level of additional traffic. A submission from a Transport Engineer notes the characteristics of the Cookstown Road and the absence of pedestrian and cycle facilities. Other issues raised in the expert submission and third-party submissions relate to the internal design and layout, the increase of carbon emission and the absence of public transport which will only increase car dependency.

11.20.5. The proposed development includes the provision of 313 no parking spaces. The site does not contain any direct public transport connection although the EIAR states that a new Bus Connect route will replace the existing bus route in the vicinity of the site. The site lies on the southern edge of the village of Enniskerry and has good footpath connectivity into the Village centre. The road upgrade provides additional pedestrian connection with the adjoining school site.

11.20.6. Three locations were included in the **TTA for the junction analysis**. The impact on one of these junctions (N11/R117) was eliminated at the preliminary examination as it was considered the proposal would have a negligible increase in the traffic at this location, which I consider reasonable. The closest junction (L1020/R117) and that junction to the east of the L1020 have been assessed in detail. The TTA notes that the two junctions are currently operating well and with a worst-case scenario (including the Powerscourt exit) 51% capacity would remain. The Transport Section have raised concern in relation to additional junctions on the approach to and within the heart of the Village and query the distribution of traffic. In

relation to the information in the TTA, I consider the impact on the closest junctions is sufficient to accommodate the cars (313) generated from the proposed development. The submission from the transport section has not identified any specific junctions which may be significantly impacted; therefore, it is difficult to assess why other junctions should have been included. The junctions chosen for the analysis are defined as those critical junctions which may be impacted, which I consider reasonable. I do not consider the analysis of additional junctions in Enniskerry would provide any more detailed information on the impact of the proposed development on the traffic in the vicinity and I note no specific junctions are identified in the PA submission. Indeed, upon site inspection there was a major tourist attraction in Enniskerry town, the volume of traffic was significant and there was no major impact on the flow of traffic along the L1020.

11.20.7. In relation to the **access from the L1020**, the report of the PA notes the current rural character and alignment, absence of drainage, lighting, and public roads. This concern is not replicated in the Traffic and Transport report. The upgrades to the L1020 radiate from the junction with the R760, along the front of the Powers Court National School, with extended pedestrian access into the site. Additional pedestrian crossings are proposed along the L1020. I consider these works will alter the character and alignment of the L1020 up to an including the access into the site. The remainder of the L1020 provides access onto the N11 to the east with access to one-off rural dwellings. Whilst I note onsite inspection this road was rural in nature there was sufficient space for two cars to pass. It would be unreasonable to request the applicant to provide an upgrade for the remainder of this road and I consider those works proposed are sufficient. I note the PA request for RSA stage 2& 3 which I consider reasonable.

11.20.8. A **DMURS** Statement of Compliance accompanied the application. The findings are incorporated into the EIAR. It is stated that the internal roads are generally 5.5m wide and there are a number of home zones. Third party submissions have raised concern in relation to the DMURS compliance. In relation to permeability, I note three potential vehicular links are provided to the permitted development to the west of the site. Having regard to the design of Reg. Ref. 19/871 only one of those links is possible. The proposed boundary treatment along the west at this point includes a 1.2m high post and rail fence. This will restrict permeability

into the adjoining site. I consider a condition on any grant of permission reasonable to ensure permeability into adjoining sites. Pedestrian access is available to the south of the site into the adjoining site and to the Lovers Leap walkway. I have assessed the internal layout proposed and documentation submitted with the application, and I consider the proposal integrates permeability and connectivity into the proposal and provides a road hierarchy in line with the guiding principles of DMURS. Pedestrian links are provided throughout the development connecting to the existing infrastructure and in this regard, I consider the proposal supports sustainable travel movements.

Impact on the traffic and transport

- 11.20.9. There is a potential short term negative impact on the surrounding road network from the movement of traffic and transport associated with the construction activities.

Mitigation for traffic and transport

- 11.20.10. **Mitigation measures** incorporated during the construction phase, e.g., traffic control, wheel wash will prevent any significant impact on the surrounding area and any impact will be short term. These details are also included in the CEMP. The cumulative impact of any adjoining permitted scheme has been considered in the TTA and although a third-party submission refers to the recent opening of the Powerscourt Distillery I note this is part of the overall Powerscourt Estate and I do not consider it a material consideration on the impact of traffic to this site.

Conclusion

- 11.21. The information presented in the EAIR and the supporting documentation is sufficient, in my opinion, to undertake a detailed assessment on the impact of the proposed development on traffic and transport. It can therefore be concluded that, subject to the implementation of the measures described in the EIAR, the proposed development would not be likely to have a significant effect on the traffic and transport. With regard to cumulative impacts, no significant cumulative impacts anticipated. I have considered all of the written submissions made in relation to traffic and transport and the relevant contents of the file including the EIAR. I am satisfied with the level of information submitted; any issues of a technical nature can be addressed by condition as necessary.

Material Assets- Utilities

Introduction

11.21.1. Chapter 12 deals with Material Assets. Lighting upgrades, water infrastructure and utilities such as ESB connection, broadband infrastructure and gas infrastructure will be provided.

Impact on utilities

11.21.2. The main impact on material assets will be the associated with the construction activities which will be short term. A long-term positive impact on the delivery of utilities in the area

Mitigation for material assets

11.21.3. Mitigation measures are listed in Section 12.6.1 which are reiterated throughout the relevant chapters in the EIAR and within the CEMP.

Conclusion

11.21.4. The information presented in the EAIR and the supporting documentation is sufficient, in my opinion, to undertake a detailed assessment on the impact of the proposed development on material assets. It can therefore be concluded that, subject to the implementation of the measures described in the EIAR, the proposed development would not be likely to have a significant effect on the material assets. With regard to cumulative impacts, no significant cumulative impacts anticipated. I have considered all of the written submissions made in relation to material assts and the relevant contents of the file including the EIAR. I am satisfied with the level of information submitted; any issues of a technical nature can be addressed by condition as necessary.

11.22. Archaeology, Architecture and Cultural Heritage

Introduction

11.22.1. Chapter 13.0 deals with Archaeology, Architecture and Cultural Heritage. In addition to a desktop analysis, archaeological testing informed this assessment. Six areas within the site were identified for assessment. The results from the geophysical survey and archaeological testing found some material within he pits possibly associated with the Iron Age.

Impact on Archaeology, Architecture and Cultural Heritage

11.22.2. In relation to architectural heritage, no protected structures are located within the site and the closest structures include Blundell Houses to the north, the gates of Powerscourt estate and a Church of Ireland church 270m to the northwest. Three other buildings listed on the National inventory of Architectural Heritage (NIAH) are located in the surrounding area but not directly related to the site. The EIAR notes the closest structure is some 180m and screened from the public road with trees. The impact on any structures is not considered significant.

Mitigation Measures for Archaeology, Architecture and Cultural Heritage

11.22.3. Mitigation measures relating to the archaeology on the site relate to monitoring during excavation and full consultation with the national departments. I consider this can be reasonably included as a condition on any grant of permission.
Conclusion

11.22.4. The information presented in the EAIR and the supporting documentation is sufficient, in my opinion, to undertake a detailed assessment on the impact of the proposed development on Archaeology, Architecture and Cultural Heritage. It can therefore be concluded that, subject to the implementation of the measures described in the EIAR, the proposed development would not be likely to have a significant effect on the Archaeology, Architecture and Cultural Heritage. With regard to cumulative impacts, no significant cumulative impacts anticipated. I have considered all of the written submissions made in relation to Archaeology, Architecture and Cultural Heritage and the relevant contents of the file including the EIAR. I am satisfied with the level of information submitted; any issues of a technical nature can be addressed by condition as necessary.

11.23. The interaction between the above factors

11.23.1. Chapter 15 provides a summary of principal interactions and inter-relationships, which have been discussed in the preceding chapters. Table 15.1 summarises the interaction and the significance of any impact. Briefly they comprise an interaction between the following:

- Population & Human Health, Air Quality & Climate, Noise/Vibration and Material Assets,

- Biodiversity, Land & Soils, Water and Material Assets,
- Land & Soils, Biodiversity, Water, Air Quality & Climate and Material Assets,
- Water, Land & Soils and Material Assets,
- Air Quality & Climate, Population & Human Health and Biodiversity,
- Landscape and Visual, Population & Human Health, Biodiversity and Noise/Vibration,
- Traffic, Population & Human Health, Land & Soils, Air Quality & Climate, Noise/Vibration,
- Material Assets, Population & Human Health, Biodiversity, Land & Soils, Water, Air Quality & Climate, Noise/Vibration and Traffic
- Cultural Heritage
- Risk Management, Population & Human Health, Land & Soils, Water, Air Quality & Climate, Noise/Vibration and Traffic

No significant impacts have been identified.

11.23.2. I have considered the interrelationships between factors and whether they might as a whole affect the environment, even though the effects may be acceptable on an individual basis. Having considered the mitigation measures in place, no residual risk of significant negative interaction between any of the disciplines was identified and no further mitigation measures were identified. In conclusion, I am satisfied that effects arising can be avoided, managed and mitigated by the measures which form part of the proposed development, mitigation measures, and suitable conditions. There is, therefore, nothing to prevent the granting of permission on the grounds of interactions between environmental factors.

11.24. **Other Matters/Screening Determination**

11.24.1. The applicant notes the proposed development is under the mandatory threshold for an Environmental Impact Assessment report (EIAR) although having regard to the specific site characteristics in particular the landscape and visual amenity and the biodiversity in the vicinity, it was considered an EIAR should accompany the application. An observation to the application notes the quantum of development proposed and does not consider the applicant could decide to submit

an EIAR. The submission states that the EIA Screening Determination should have been carried out by the Board before the making of an application. I note Section 1.5 of the EIAR makes reference to Article 299A of 2001, the Planning and Development Regulations proves that where an application for “sub threshold” is accompanied by an EIAR it shall be dealt with as if the EIAR had been submitted in accordance with section 172 (1) of the Act. In this regard, I have assessed those regulations relating to the submission of an EIAR with a “sub-threshold” proposal and I find no such restrictions.

Cumulative Impact

11.24.2. I have addressed the cumulative impacts in relation to each of the environmental factors above and an overall summary is included in Section 15.3 of the EIAR. I consider that the EIAR presents a comprehensive consideration of the relevant developments within the wider area where there is potential for cumulative impacts with the proposed development. In conclusion, I am satisfied that effects arising can be avoided, managed and mitigated by the measures which form part of the proposed development, mitigation measures, and suitable conditions. There is, therefore, nothing to prevent the granting of permission on the grounds of cumulative impacts.

11.25. Reasoned Conclusion on the Significant Effects

11.25.1. Having regard to the examination of environmental information set out above, to the EIAR and other information provided by the developer, and to the submissions from the planning authority, prescribed bodies and observers in the course of the application, it is considered that the main significant direct and indirect effects of the proposed development on the environment are as follows:

- **Population and Human Health:** A short term negative impact on those living in the immediate vicinity from construction activities will be mitigated by measures included in the Construction Environmental Management Plan (CEMP) and the increase in housing will lead to a long-term positive impact on the settlement of Enniskerry.
- **Biodiversity impacts:** A short term moderate impact on bats will be mitigated by the use of appropriate lighting, tree planting, use of bat boxes in the interim and also enhanced planting scheme along the west of the site. No significant

negative impacts will occur on any areas identified for local or national protection and there are no pathways with any European Sites.

- **Land and soil impacts:** Alterations to the profile of the site will be mitigated by the reuse of excavated soil where possible and potential Impacts on water quality will be mitigated by the implementation of a CEMP to control siltation and water pollution.
- **Water Impacts:** Potential impacts on water quality in the area will be mitigated by construction management measures and implementation of SUDS measures.
- **Landscape and Visual:** The retention of a central vista through the middle of the site enables the protection of views towards Sugarloaf Mountain and the retention of enhancement of trees and hedgerows will mitigate any immediate impact.
- **Traffic and transportation impacts:** The development will give rise to short-term construction traffic impacts, mitigated by traffic management and other environmental considerations in the CEMP. The creation of new pedestrian linkages will benefit of the wider area.
- **Archaeology, Architecture and Cultural Heritage:** The potential for short term negative impact on any archaeology will be mitigated through monitoring of groundworks during construction.

11.25.2. The EIAR has considered that the main significant direct and indirect effects of the proposed development on the environment would be primarily mitigated by environmental management measures, as appropriate. The assessments provided in the EIAR chapters are satisfactory, I am satisfied with the information provided allows an assessment of the likely significant environmental effects arising as a consequence of the proposed development to be satisfactorily identified, described and assessed. The environmental impacts identified are not significant and would not justify refusing permission for the proposed development or require substantial amendments to it.

12.0 Appropriate Assessment (AA)

AA Screening

- 12.1. An AA Screening Report accompanied the application. The report states that there are no habitats present at the site which are examples of those listed in Annex I of the Habitats Directive and there is no evidence that species listed in Annex II of that directive are present. The report also states that there are no watercourses on the site or lands suitable for populations for wetland/wading/wintering birds associated with coastal Natura 2000 sites. The development site is not in or immediately adjacent to any Natura 2000 site. The screening report lists 12 European sites are located within a 15km radius of the site. The report concludes that the proposed development will not result in any significant effects on any European Sites, having regard to best scientific knowledge.
- 12.2. The details of these European Sites are listed below. In addition to those listed in the screening report, I have included The Murrough Wetlands SAC (002249) as this is also within the 15km zone of influence (referenced in the screening report).

European Site (code)	List of Qualifying interest (QI) /Special Conservation Interest (SCI)	Distance from proposed development (Km)	Conservation objectives
SAC			
Knocksnick Wood SAC (000725) <i>*Contains priority habitats</i>	*Petrifying springs with tufa formation (Cratoneurion) [7220] Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0] *Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae) [91E0]	c. 0.3km to the north	To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.
Ballyman Glen SAC (000713)	Petrifying springs with tufa formation (Cratoneurion) [7220] Alkaline fens [7230]	c. 1.2km to the north	To restore the favourable conservation condition of Petrifying springs with tufa formation (Cratoneurion)* and the Alkaline fens in Ballyman Glen SAC, which is

			defined by a list of attributes and targets.
Wicklow Mountains SAC (002122)	<p>Oligotrophic waters containing very few minerals of sandy plains (Littorelletalia uniflorae) [3110]</p> <p>Natural dystrophic lakes and ponds [3160]</p> <p>Northern Atlantic wet heaths with Erica tetralix [4010]</p> <p>European dry heaths [4030]</p> <p>Alpine and Boreal heaths [4060]</p> <p>Calaminarian grasslands of the Violetalia calaminariae [6130]</p> <p>Species-rich Nardus grasslands, on siliceous substrates in mountain areas (and submountain areas, in Continental Europe) [6230] (priority habitat)</p> <p>Blanket bogs (* if active bog priority habitat) [7130]</p> <p>Siliceous scree of the montane to snow levels (Androsacetalia alpinae and Galeopsietalia ladani) [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 Ilex and Blechnum in the British Isles [91A0]</p> <p>Lutra lutra (Otter) [1355]</p>	c. 3.5km to the west	<p>To maintain the favourable conservation condition of</p> <p>Oligotrophic waters containing very few minerals of sandy plains (Littorelletalia uniflorae)</p> <p>Natural dystrophic lakes and ponds</p> <p>Calaminarian grasslands of the Violetalia calaminariae</p> <p>Otter Lutra lutra</p> <p>in Wicklow Mountains SAC, which are defined by a list of attributes and targets.</p> <p>To restore the favourable conservation condition of</p> <p>Northern Atlantic wet heaths with Erica tetralix in European dry heaths</p> <p>Alpine and Boreal heaths</p> <p>Species-rich Nardus grasslands, on siliceous substrates in mountain areas (and submountain areas, in Continental Europe)*</p> <p>Blanket bogs (* if active bog)</p> <p>Siliceous scree of the montane to snow levels (Androsacetalia alpinae and Galeopsietalia ladani)</p> <p>Calcareous rocky slopes with chasmophytic vegetation</p> <p>Siliceous rocky slopes with chasmophytic vegetation</p> <p>Old sessile oak woods with Ilex and Blechnum in the British Isles</p> <p>Wicklow Mountains SAC, which is defined by the following list of attributes and targets:</p>
Bray Head SAC (000714)	<p>Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]</p> <p>European dry heaths [4030]</p>	c. 4.8km to the east	To maintain the favourable conservation condition of Vegetated sea cliffs of the Atlantic and Baltic coasts

			To restore the favourable conservation condition of European dry heaths
Glen of Downs SAC (000719)	Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]	c. 6.4km to the south	To restore the favourable conservation condition of Old sessile oak woods with Ilex and Blechnum in the British Isles in Glen of the Downs SAC, which is defined by a list of attributes and target
Rockabill to Dalkey island SAC (0300)	Reefs [1170] Phocoena phocoena (Harbour Porpoise) [1351]	c. 8km to the north east	To maintain the favourable conservation condition of Harbour porpoise and Reefs in Rockabill to Dalkey Island SAC, which is defined by a list of attributes and targets.
Carrigower Bog SAC (000716)	Transition mires and quaking bogs [7140]	c. 8.5km to the south	To maintain the favourable conservation condition of Transition mires and quaking bogs in which is defined by a list of attributes and targets.
The Murrough Wetlands SAC (002249)	Annual vegetation of drift lines [1210] Perennial vegetation of stony banks [1220] Atlantic salt meadows (Glauco-Puccinellietalia maritima) [1330] Mediterranean salt meadows (Juncetalia maritimi) [1410] Calcareous fens with Cladium mariscus and species of the Caricion davalliana [7210] Alkaline fens [7230]	c. 11.8km to the south east	To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.
South Dublin Bay SAC (00210)	Mudflats and sandflats not covered by seawater at low tide [1140] Annual vegetation of drift lines [1210] Salicornia and other annuals colonising mud and sand [1310] Embryonic shifting dunes [2110]	c. 13km to the north	To maintain the favourable conservation condition of habitats *See South Dublin Bay SPA also
SPA			

Wicklow Mountains SPA (004040)	Merlin (<i>Falco columbarius</i>) [A098] Peregrine (<i>Falco peregrinus</i>) [A103]	c. 4.2km to the west	To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA
The Murrough SPA (004186)	Red-throated Diver (<i>Gavia stellata</i>) [A001] Greylag Goose (<i>Anser anser</i>) [A043] Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046] Wigeon (<i>Anas penelope</i>) [A050] Teal (<i>Anas crecca</i>) [A052] Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179] Herring Gull (<i>Larus argentatus</i>) [A184] Little Tern (<i>Sterna albifrons</i>) [A195] Wetland and Waterbirds [A999]	c. 12.8km to the south east	To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA: To maintain or restore the favourable conservation condition of the wetland habitat at The Murrough SPA as a resource for the regularly occurring migratory waterbirds that utilise it.
Dalkey Islands SPA (004172)	Roseate Tern (<i>Sterna dougallii</i>) [A192] Common Tern (<i>Sterna hirundo</i>) [A193] Arctic Tern (<i>Sterna paradisaea</i>) [A194]	c. 9km to the north east	To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA:
Wicklow Mountains SPA (004040)	Merlin (<i>Falco columbarius</i>) [A098] Peregrine (<i>Falco peregrinus</i>) [A103]	c. 4.2km to the north east	To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.
South Dublin Bay and River Tolka Estuary SPA (004024)	Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046] Oystercatcher (<i>Haematopus ostralegus</i>) [A130] Ringed Plover (<i>Charadrius hiaticula</i>) [A137]	c. 12km to the north	To maintain the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA

	<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>		
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Proposed Development

- 12.3. The proposed development is for the construction of 165 no. dwellings and associated ancillary infrastructure including regarding of the site, public road upgrades and the provision of public open space along the south of the site.
- 12.4. The River Dargle is located c. 100m at the closest point, to the south of the site, separated by a golf course. The proposed development connects to the main water supply and the wastewater will be treated in the Enniskerry and Environs municipal treatment plan which discharges to the River Dargle. The EIAR which accompanied the application notes the treatment plant is operated by Irish Water under licence by the EPA (licence no: D0088-01). As stated above in the Therefore, I consider there is sufficient capacity in the plant for additional connections.

Potential for Significant effects

- 12.1. The screening report notes no terrestrial or hydrological pathways between the development site or any European Site. In relation to the SPA species the screening report notes no lands area suitable for wintering birds or potential of ex-situ impacts.
- 12.2. In relation to surface water the screening report notes the distance of the site to the Bray Head SAC which is at the mouth of the River Dargle. Having regard to this distance (c.4.5km) and the absence of any direct hydrological link any pollutants will be diluted to such a degree that there will be no measurable impact. I note the location of the site north of the River Dargle, separated by a golf course, the distance downstream to the Bray bay and those qualifying interests including dry heath and vegetated sea cliffs associated with the Bray head SAC which are a further located south along the coastline, and I do not consider the proposed development would cause any significant negative effect on any European Sites downstream of the River Dargle.
- 12.3. In relation to groundwater, the site is located within the Enniskerry Gravels groundwater body^[1] which is a locally important aquifer. Four terrestrial ecosystems are linked to this ground water body (GWB) which include the Knocksink Wood SAC (000725) and the Ballyman Glen SAC (000713)^[2], and interactions with these European Sites are further detailed below. Significant alterations to the groundwater levels could have a significant impact on those ground water dependant habitats of the two SACs where they are linked via a hydrogeological pathway. Groundwater pollution could also have a negative impact on such habitats if a pathway between impact source and sensitive receptor were present.

Assessment of the Source -Pathway – Receptor and potential for Impact on the Groundwater

- 12.4. Knocksink Wood SAC is located 780m to the north west of the site with Enniskerry Village within the intervening area and Ballyman Glen SAC is located c.1.5km to the north of the site. The Glencullen river (also known as the Cookstown River) flows between the site and both SACs and the built-up area of Enniskerry separates the site and the Knocksink Wood SAC. The topography of the surrounding area is such

^[1] www.gsi.ie

^[2] https://secure.dccae.gov.ie/GSI_DOWNLOAD/Groundwater/Reports/GWB/EnniskerryGWB.pdf

that lands to the north and south of the Glencullen River and Enniskerry Village are elevated with groundwater following the natural topography towards the River.

- 12.5. As part of their submission on Nature Conservation issues, the DAU on behalf of the Minister of Tourism, Culture, Arts, Gaeltacht, Sport and Media, raise a concern that any impacts to the locally important aquifer (Enniskerry Gravels) should be considered in terms of the potential for significant effects on groundwater dependant habitats and qualifying interest habitat of Petrifying springs with tufa formation (Cratoneurion) (7220) associated with both Knocksink Wood SAC and Ballyman Glen SAC (also Alakaline Fens (7230)) which all lie within the area underlain by this gravel aquifer.
- 12.6. The AA Screening undertaken by Openfield Ecological Services on behalf of the applicant does not identify groundwater as a possible direct or indirect ecological pathway to either SAC and rules out any potential surface water hydrological connection to any SAC.
- 12.7. The site-specific Conservation Objectives for Ballyman Glen SAC (000713) provides a clear description of the contributing factors which are required to support the habitats listed in both this SAC Alkaline fens [7230] and those also in Knocksink Wood SAC (000725), namely Petrifying springs with tufa formation (Cratoneurion) [7220]. It is stated that fen habitats require high groundwater levels which are controlled by regional groundwater levels in the contributing catchment area and any regional abstraction of groundwater may affect fen groundwater levels. In addition, Petrifying Springs rely on permanent irrigations usually from upwelling groundwater sources ^[3].
- 12.8. I accept that groundwater could potentially provide a connection between the proposed development site and those SAC sites if groundwater flows were towards those sites if groundwater flows were intercepted or impeded by the development in some way or if the development required significant dewatering or abstraction of the gravel aquifer. However, in the case of this proposal, I consider this potential connection rather tenuous due to the elevation of the site (being at a significant elevation from either SAC above Enniskerry village) with water flows following the

^[3] https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO000713.pdf

topographical relief towards nearby rivers, the Glencullen River to the North and the River Dargle to the south of the site, with flows some way removed from the sensitive receptors of either SAC: downstream of Knocksink Wood SAC and separated by a river valley in terms of Ballyman Glen SAC. In addition, there is no requirement for any significant dewatering or abstraction. Objective information on the hydrogeology and hydrology of the site provided in chapters 5 (Land and Soils) and 6 (Water and Hydrology) of the EIAR demonstrate that no significant effects on groundwater or the locally important aquifer are likely to arise. The information contained in the EIAR replicates the data presented in the Geological Survey of Ireland website (www.gsi.ie^[4]).

- 12.9. Chapter 5 states that there is no significant risk to the locally important aquifer. The direction flow of the groundwater north of the site, towards the Glencullen River, is in line with the natural gradient of the site, meaning any groundwater does not feed directly into either SAC from the proposed development site (Figure 5.6 EIAR).
- 12.10. Deep excavations that could infiltrate water flows through the gravel overburden are not required at the proposed development site. Boreholes of up to 7.5m deep (no. 3) at the site (Chapter 5) did not encounter bedrock, or groundwater indicating a water table depth greater than 7.5m below ground level. This indicates that the water table depth is far below that which could be encountered by construction or operational activities at the site. Groundwater was not recorded in more shallow trial pits at the site either. Chapter 5 puts this in context due to *“the relatively high permeability sands and gravels overburden and the high topographical relief surrounding the site towards the river valleys to north and south”*.
- 12.11. In terms of any potential impacts of the operational phase of the proposed development I have taken into consideration the following from Chapter 5, *“The drainage proposals for the site aim to replicate the natural aquifer recharge by discharging all surface water collected into a soakaway, and ultimately to ground. The depth of soil through which the water will flow before reaching the aquifer, will provide adequate natural filtration in accordance with best practice guidelines of Sustainable Drainage Systems (SuDS), to ensure no suspended solids reach the aquifer below. Therefore, the aquifer will not be affected by the proposed new site in*

^[4]<https://dcenr.maps.arcgis.com/apps/MapSeries/index.html?appid=a30af518e87a4c0ab2fbde2aaac3c228>

terms of water quality or quantity. It is acknowledged that a slightly concentrated recharge flow will occur, however this will not have an impact on the groundwater due to the permeable overburden and surrounding topography". The Board will note those mitigation measures integrated into the overall design of the proposal as detailed in Chtp 5 and 6 and further elaborated in the EIAR, although I do not consider that they are necessary or intended to prevent impacts on the groundwater dependant habitats of SACs, due to demonstrated preferential flows, characteristics of the site and design of works. I am satisfied that any works in the proposed development are not specific to the mitigation of any impacts on the European Sites and relate to the best practice methods used to protect water quality.

12.12. On this basis, it is unlikely that groundwater will be encountered during construction works, and significant dewatering will not be required. The proposed development will therefore not interfere with the movement of water within the (locally important) gravel aquifer and there will be no significant reduction in the recharge of that aquifer from the development. Ground water flows from the proposed development site drain naturally towards the Glencullen River north of the site, downstream of Knocksink Wood SAC and separated from Ballyman Glen SAC by the intervening river valley. On this basis I am satisfied that there is no risk that qualifying interest groundwater dependant habitats such as Petrifying springs with tufa formation (Cratoneurion) (7220) and Alakaline Fens (7230) could be impacted by the proposed housing development.

In Combination Effect

12.13. The submitted screening report notes the grant of permission on adjoining lands in the AAP3 area, an extant permission for 6 no. houses (Reg Ref 16/976), 12 no. dwellings (PL27.248914, Reg. Ref 17/15) and a permission in Powerscourt Demesne landbank for 47 no. dwelling (Reg Ref 19/676). The report concluded these permissions were considered alongside a preapplication enquiry for an SHD proposal and there is no potential for any in-combination effects.

12.14. I note those permissions listed and the general characteristics of the site, the location of the groundwater dependant habitats and the surrounding area and having regard to my assessment above I am satisfied that the proposed development, either alone or in-combination with other plans or projects, would not adversely affect the

integrity of the Knocksink Wood SAC (site code 000725) and Ballyman Glen SAC (site code 000713) or any other European site.

Screening Determination and Conclusion

12.15. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually (or in combination with other plans or projects) would not give rise to significant effects on Knocksink Wood SAC (site code 000725), Ballyman Glen SAC (site code 000713) or any European site in view of the sites conservation objectives and Appropriate Assessment is therefore not required.

12.16. This determination is based on the following:

- Consideration of objective and best available scientific information provided in the AA Screening Report and EIAR prepared as part of the application.
- Consideration of nature conservation observations in relation to potential effects on groundwater dependant habitats that are qualifying interest habitats of Knocksink Wood SAC (site code 000725) and Ballyman Glen SAC (site code 000713).
- No effect on the locally important aquifer by the proposed new site in terms of water quality, water quantity or movement of groundwater within the gravel aquifer.
- Ground water flows to ground water dependant habitats within Knocksink Wood SAC (site code 000725) or Ballyman Glen SAC (site code 000713) will not be affected by the proposal.
- The distance of the proposed development from European sites in the wider area (within 15km) and a demonstrated lack of any meaningful ecological connections to those sites.

Measures intended to reduce or avoid significant effects on European sites have not been considered in the screening process.

13.0 Recommended Board Order

Application for permission under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016, in accordance with plans and

particulars, lodged with An Bord Pleanála on the 28th of April 2021 by John Spain Associates on behalf of Cairn Homes Properties Limited.

Proposed Development:

The construction of 165 no. dwellings and associated ancillary infrastructure as follows:

- a. 105 no. 2 storey houses, 56 no. apartments/duplex apartments in 6 no. 3 storey buildings and 4 no. 1 bedroom Maisonette dwellings in a 2 storey building;
- b. Part 2-storey and single storey creche (c. 510 sq. m - including storage);
- c. Open space along southern boundary of c. 0.93 hectares [with pedestrian connections to boundary to 'Lover's Leap Lane' to the south and to boundary to the east and west], hard and soft landscaping (including public lighting) and open space (including boundary treatment), communal open space for duplex apartments;
- d. Regrading/re-profiling of site where required [including import/export of soil as required] along with single storey bicycle/bin stores and ESB substation;
- e. Vehicular access (including construction access) from the Cookstown Road from a new junction as well as 313 no. car parking spaces and 150 no. cycle spaces;
- f. Surface water attenuation measures and underground attenuation systems as well as connection to water supply, and provision of foul drainage infrastructure (along the Cookstown Road to existing connection at junction with R760) and provision of underground local pumping station to Irish Water specifications;
- g. 3 no. temporary (for 3 years) marketing signage structures [2 no. at the proposed entrance and 1 no. at the junction of the R760 and the Cookstown Road] and a single storey marketing suite (c. 81m²) within site;
- h. All ancillary site development/construction/landscaping works, along with provision of footpath/public lighting to Powerscourt National School pedestrian entrance and lighting from Powerscourt National School entrance to the

junction of the R760 along southern side of Cookstown Road and pedestrian crossing across Cookstown Road

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.

13.1. Reasons and Considerations

Having regard to the following:

- (a) the policies and objectives set out in the NPF
- (b) the policies and objectives set out in the Wicklow County Council Development Plan 2016-2022,
- (c) the policies and objectives set out in the Bray Municipal Local Area Plan 2018-2024,
- (d) the Rebuilding Ireland Action Plan for Housing and Homelessness, 2016
- (e) Urban Development and Building Heights, Guidelines for Planning Authorities, 2018
- (f) the Design Manual for Urban Roads and Streets (DMURS), 2013, as amended
- (g) the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, 2009
- (h) the Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for New Apartments, 2020
- (i) the nature, scale and design of the proposed development,

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

13.2. **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. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually (or in combination with other plans or projects) would not give rise to significant effects on Knocksink Wood SAC (site code 000725), Ballyman Glen SAC (site code 000713) or any European site in view of the sites conservation objectives and Appropriate Assessment is therefore not required.

This determination is based on the following:

- Consideration of objective and best available scientific information provided in the AA Screening Report and EIAR prepared as part of the application.
- Consideration of nature conservation observations in relation to potential effects on groundwater dependant habitats that are qualifying interest habitats of Knocksink Wood SAC (site code 000725) and Ballyman Glen SAC (site code 000713).
- No effect on the locally important aquifer by the proposed new site in terms of water quality, water quantity or movement of groundwater within the gravel aquifer.
- Ground water flows to ground water dependant habitats within Knocksink Wood SAC (site code 000725) or Ballyman Glen SAC (site code 000713) will not be affected by the proposal.

- The distance of the proposed development from European sites in the wider area (within 15km) and a demonstrated lack of any meaningful ecological connections to those sites.

Measures intended to reduce or avoid significant effects on European sites have not been considered in the screening process.

13.3. **Environmental Impact Assessment**

Having regard to the examination of environmental information in the EIAR, other information in the plans and particulars and the submissions from the planning authority, prescribed bodies and observers in the course of the application, it is considered that the main significant direct and indirect effects of the proposed development on the environment are as follows:

- **Population and Human Health:** A short term negative impact on those living in the immediate vicinity from construction activities will be mitigated by measures included in the Construction Environmental Management Plan (CEMP) and the increase in housing will lead to a long-term positive impact on the settlement of Enniskerry.
- **Biodiversity impacts:** A short term moderate impact on bats will be mitigated by the use of appropriate lighting, tree planting, use of bat boxes in the interim and also enhanced planting scheme along the west of the site. No significant negative impacts will occur on any areas identified for local or national protection and there are no pathways with any European Sites.
- **Land and soil impacts:** Alterations to the profile of the site will be mitigated by the reuse of excavated soil where possible and potential Impacts on water quality will be mitigated by the implementation of a CEMP to control siltation and water pollution.
- **Water Impacts:** Potential impacts on water quality in the area will be mitigated by construction management measures and implementation of SUDS measures.
- **Landscape and Visual:** The retention of a central vista through the middle of the site enables the protection of views towards Sugarloaf Mountain and the

retention of enhancement of trees and hedgerows will mitigate any immediate impact.

- **Traffic and transportation impacts:** The development will give rise to short-term construction traffic impacts, mitigated by traffic management and other environmental considerations in the CEMP. The creation of new pedestrian linkages will benefit of the wider area.
- **Archaeology, Architecture and Cultural Heritage:** The potential for short term negative impact on any archaeology will be mitigated through monitoring of groundworks during construction.

The likely environmental effects arising because of the proposed development have been satisfactorily identified, described, and assessed. The environmental impacts identified are not significant and would not require or justify refusing permission for the proposed development or require substantial amendments.

13.4. **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 not seriously injure the residential or visual amenities of the area or of property in the vicinity and would not endanger public safety by reason of traffic hazard. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

The Board noted the submission from the Chief Executive of Wicklow County Council other third-party submissions which refers to the material contravention of the Wicklow County Council Development Plan 2016-2022 and the Bray Municipal Local Area Plan 2018-2024 relating to the Material Contravention of the land use zoning, density, non-compliance with the criteria for development on AA3 lands, and the traffic hazard, Strategic Open Space zone lands.

The Board considers that, while a grant of permission for the proposed Strategic Housing Development would not materially contravene a land use zoning of the Development Plan, lead to a traffic hazard or contravene Objective R6 , it would materially contravene the quantum of development or Action Area Plan 3-Cookstown, the density requirements for development on R10 New Residential

urban Fringe and R20 New Residential, the location of the apartments (Objective HD3) and the requirement 0.4ha for voluntary housing.

The Board considers that, having regard to the provisions of section 37(2)(b)(i) and (iii) of the Planning and Development Act 2000, as amended, the grant of permission is a material contravention of:

- The development objectives for R10 New Residential Rural Fringe, R20 New Residential in both the Wicklow County Council Development Plan 2016-2022 and the Bray Municipal Local Area Plan 2018-2024, Objective HD 5 of the Wicklow County Council Development Plan 2016-2022 and the Criteria for development on the Action Area Plan 3 lands in the Bray Municipal Local Area Plan 2018-2024 in relation to density.
- Table 3.2 of the Bray Municipal Local Area Plan 2018-2024 and the Criteria for development on the Action Area Plan 3 lands in the Bray Municipal Local Area Plan 2018-2024 in relation to the quantum of development.
- Objective HD13 of the Wicklow County Council Development Plan 2016-2022 in relation to the location of apartments within 10mins of a light rail or train station.
- The Criteria for development on the Action Area Plan 3 lands in the Bray Municipal Local Area Plan 2018-2024 in relation to density in relation to the 0.4ha shall be provided for voluntary/sheltered housing.

would be justified for the following reasons and consideration:

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

The proposed development is considered to be of strategic or national importance by reason of its potential to contribute to the achievement of the Government's policy to increase delivery of housing set out in Rebuilding Ireland – Action Plan for Housing and Homelessness issued in July 2016, and to facilitate the achievement of greater density and height and range of typologies in residential development and to facilitate the achievement of compact residential growth in an urban centre close to public transport and centres of employment. The site, located in an area designated for growth, on

an edge of centre location on Enniskerry, c. 20km from Dublin centre and served by public transport can assist the delivery of housing.

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

It is considered there are conflicting objectives in the Wicklow County Council Development Plan 2016-2022 in so far as Objective HD13 which only permits apartments on sites within 10min waking distance is in conflict with Objective HD 3 which permits up to 20% floorspace for apartments in “out of centre” locations and the development description for New Residential lands which requires a range and mix of types to support balanced communities.

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

It is considered that permission for the proposed development should be granted having regard to Government policies as set out in the National Planning Framework (in particular objectives 3 (a), 11 and 33), the Urban Development and Building Height Guidelines for Planning Authorities, (in particular SPPR 4), the Sustainable Residential Development in Urban Areas (in particular Chapter 5 and 6 and the accompanying Urban Design Manual) and the Sustainable urban housing: Design Standards for New Apartments (in particular Section 2.2 and 2.4). These guidelines and polices contain objectives which support the delivery of residential development in appropriate locations through the promotion of densities on serviced sites in urban areas. The proposed development is located on a serviced site identified for residential growth in the Action Area Plan in the Bray Municipal Local Area Plan 2018-2024, contiguous to the social infrastructure and close to services and amenities which promotes compact urban form through the use of an appropriate quantum of development, density range and mix, consistent with these objectives.

In accordance with section 9(6) of the 2016 Act, the Board considered that the criteria in section 37(2)(b)(i) (ii) and (iii) of the 2000 Act were satisfied for the reasons and considerations set out in the decision.

13.5. 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, the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of clarity

2. All mitigation and monitoring measures outlined in the plans and particulars, including the EIAR, bat survey, Construction Environmental Management Plan (CEMP) and subsequent reports submitted with this application shall be carried out in full, except where otherwise required by conditions attached to this permission. The applicant shall employ a qualified Ecological Clerk of Works (ECoW) to oversee and implement the mitigation measures and other ecological works listed throughout the submitted documentation.

Reason: In the interest of protecting the environment and in the interest of public health.

3. The proposed development shall be amended as follows:

(a) The external finishes for dwellings shall be amended and different materials shall be used for and connected to the 5 no character areas.

(b) The design and layout of the most northern unit of Duplex Block C shall be redesigned so that the main facade of the end unit is orientated north, onto the communal open space area.

c) Access into the site to the west shall be included in a revised site layout and the boundary treatment along the west of the site shall integrate and reflect the permeability between the subject site and the permitted scheme/site to the west.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority/An Bord Pleanála prior to commencement of development.

Reason: In the interests of visual and residential amenity.

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

Reason: In the interest of visual amenity

5. (a) The development shall be carried out on a revised phased basis. The first phase shall consist of not more than 75 dwelling units, together with their associated site development works, and shall and the upgrade of the Cookstown Road. The delivery of the public park and amenity walk shall be included in proposals for subsequent phases. Prior to commencement of any development on the overall site, details of the first phase shall be submitted to, and agreed in writing with, An Bord Pleanála.

(b) Work on any subsequent phases shall not commence until substantial completion of Phase 1 or prior phase or such time as the written agreement of the planning authority is given to commence the next phase. Details of further phases shall be as agreed in writing with the planning authority.

Reason: To ensure the timely provision of services, for the benefit of the occupants of the proposed dwellings

6. 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/installation of lighting. Such lighting shall be provided prior to the making available for occupation of any house.
Reason: In the interests of amenity and public safety.

7. The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, [access road to the service area] and the underground car park shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in DMURS. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.
Reason: In the interest of amenity and of traffic and pedestrian safety.

8. (a) Prior to commencement of development a Stage 2 Road Safety Audit, including a final Audit Report, for the proposed development shall be prepared in accordance with TII Publications and submitted. Where the audit identified the need for design changes revised design details should be submitted to and agreed in writing with the Planning Authority. The developer shall carry out necessary works in accordance with the agreed revised design.

(b) Prior to occupation of development a Stage 3 Road Safety Audit, including a Final Audit Report, for the proposed improvement to Cookstown Road, estate road and entrance to the development from the public road, prepared in accordance with TII Publications and submitted. Where the audit identified the need for design changes revised design details should be submitted to and agreed in writing with the Planning Authority. The developer shall carry out necessary works in accordance with the agreed revised design

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

9. The landscaping and earth works scheme shown on the Landscape Masterplan Drawing, as submitted to An Bord Pleanála as part of this application shall be carried out within the first planting season following substantial completion of external construction works. In addition to the proposals in the submitted scheme, the following shall be carried out:

- a) The site shall be landscaped, using only indigenous deciduous trees and hedging species and there should be no encroachment during construction on those hedgerows
- b) Details of an appropriate hedgerow planting along the west of the site to replace the hedgerow proposed for removal.
- c) Play facilities shall be provided within the communal areas of the apartment development in line with the requirements of Section 4.13 of the Sustainable Urban Housing: Design Standards for New Apartments. Guidelines for Planning Authorities (2018).
- d) All details of the play facilities and passive recreation facilities shall be submitted for the agreement of the planning authority prior to commencement of development. The details shall include lands delivered as part of the Open Space Zoned lands and delivered through the required phased development.
- e) Compliance with the requirements and standards of the Planning Authority in relation to the lighting and tree planting within the public open space.
- f) The public open spaces areas on residential lands within the development shall be retained for the use of the residents.
- g) The boundary fence (Boundary Treatment Type 1) along the west of the proposed section of the Public Park shall be removed following completion of the development on the adjoining lands to the west.

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development or until the

development is taken in charge by the local authority, whichever is the sooner, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority. This work shall be completed before any of the dwellings are made available for occupation and shall be maintained as public open space by the developer until taken in charge by the local authority or management company.

Reason: In the interest of residential and visual amenity.

10. Prior to commencement of development, the developer shall submit to and agree in writing with the planning authority a properly constituted Owners' Management Company. This shall include a layout map of the permitted development showing the areas to be taken in charge and those areas to be maintained by the Owner's Management Company. Membership of this company shall be compulsory for all purchasers of property in the duplex/apartment's dwellings. Confirmation that this company has been set up shall be submitted to the planning authority prior to the occupation of the first residential unit.

Reason: To provide for the satisfactory completion and maintenance of the development in the interest of residential amenity.

11. A minimum of 10% of all car parking spaces should be provided with EV charging stations/points, and ducting shall be provided for all remaining car parking spaces facilitating the installation of EV charging points/stations at a later date. Where proposals relating to the installation of EV ducting and charging stations/points has not been submitted with the application, in accordance with the above noted requirements, the development shall submit 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

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

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

13. 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.

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

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

15. Prior to the opening or occupation of the development, a Mobility Management Strategy including an interim or temporary strategy reflecting any requirements or adjustments relating to Covid-19 movement and travel patterns shall be

submitted to and agreed in writing with the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking and carpooling by residents, occupants and staff employed in the development and to reduce and regulate the extent of parking. Details may include the provision of centralised facilities within the development for bicycle parking, shower and changing facilities associated with the policies set out in the strategy. The interim or temporary strategy, where applicable, should reflect the requirements of Design Manual for Urban Roads and Streets Interim Advice Note – Covid Pandemic Response (May 2020). The mobility strategy shall be prepared and implemented by the management company for all units within the development.

Reason: In the interest of encouraging the use of sustainable modes of transport and reflecting the needs of pedestrians and cyclists during Covid-19 pandemic.

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

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

(b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and

(c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

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

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

17. 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.

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

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

19. 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.

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

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

Karen Hamilton
Senior Planning Inspector

30th of July 2021