



An
Bord
Pleanála

Inspector's Report ABP-310382-21

Development	Amendments to Cherrywood SDZ Planning Scheme, 2014 – Proposed Amendment No. 8 – Building Height and Density Review
Location	Cherrywood, Dublin 18.
Planning Authority	Dún Laoghaire Rathdown County Council
Applicant(s)	Dún Laoghaire Rathdown County Council
Type of Application	Amendment of SDZ Planning Scheme
Date of Site Inspection	16 th November, 2021
Inspector	Robert Speer

1.0 Introduction

1.1. The Cherrywood Strategic Development Zone was established on 25th May, 2010 pursuant to the Planning and Development Act, 2000 (Designation of Strategic Development Zone: Cherrywood, Dún Laoghaire Rathdown County) Order, 2010 (S.I. No. 535 of 2010) with the designation by Government having been made in response to a proposal by the Minister for the Environment, Heritage and Local Government upon which the opinion was formed that the specified development was of economic and social importance to the State. In this respect the specified development in question is described in the Statutory Instrument as follows:

“residential development and the provision of schools and other educational facilities, commercial activities, including office, hotel, leisure and retail facilities, rail infrastructure, emergency services and the provision of community facilities as referred to in Part III of the First Schedule to the Act, including health and childcare services”.

1.2. The S.I. further states that the site was designated for the establishment of a strategic development zone following consideration of the potential for comprehensive planning and development of the site due to its scale and configuration, the efficient use of public investment in infrastructural facilities, including public transport, water, wastewater, and roads, and as the development of the site will help to give effect to the policies of the Regional Planning Guidelines for the Greater Dublin Area, 2004-2016.

1.3. The Statutory Instrument also specified that the development agency for the purposes of Section 168 of the Act was to be Dún Laoghaire Rathdown County Council. The area covered by the SDZ designation is shown on a map appended to the Statutory Instrument with the lands extending to an area of c. 360 hectares and lying largely between the N11 National Road to the northeast and the M50 Motorway to the southwest. The R118 Regional Road passes through the site along a southwest-northeast axis and serves to connect the N11 with the M50. Development at varying stages of construction is underway in a number of locations on the lands.

1.4. In response to the designation of the SDZ, Dún Laoghaire Rathdown County Council prepared a Planning Scheme for the SDZ which was approved by the Council on the 10th of December 2012. This was subsequently the subject of an appeal to the Board

(**ABP Ref. No. ZD06D.ZD2010**) and, following an oral hearing, the Planning Scheme was modified by Board Order on 25th April 2014.

- 1.5. On 12th January, 2017 an application was submitted by Dún Laoghaire Rathdown County Council pursuant to Section 170A(1) of the Planning and Development Act, 2000, as amended, under **ABP Ref. No. ZE06D.ZE0002** for a series of amendments to the approved Planning Scheme. This application sought to update the Scheme by incorporating changes prompted by the '*Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities*' and also to revise the sequencing of retail development within the town centre. The Board proceeded to approve the former changes (Proposed Amendment Nos. 1 – 4) under Section 170A(4)(a) of the Act on the basis that those amendments were not material and satisfied the criteria listed under Section 170A(3)(b). The latter revision (Proposed Amendment No. 5) was deemed to be material under Section 170A(2), however, as it satisfied the criteria under Section 170A(3)(b) there was no need under Section 170A(3)(a) to activate the procedures set out in Section 169 for the re-making of the Planning Scheme and instead the Planning Authority was advised to initiate the public consultation procedures outlined under Section 170A(7). In subsequent correspondence with the Board, the Planning Authority advised of the withdrawal of Proposed Amendment No. 5.
- 1.6. A further application (**ABP Ref. No. ABP-302223-18**) to amend the Planning Scheme under Section 170A(1) of the Planning and Development Act, 2000, as amended, was submitted by Dún Laoghaire Rathdown County Council in September, 2018. The amendments proposed effectively entailed the replacement of Chapter 7 of the Scheme with a new chapter updated to reflect the front loading of infrastructure that had happened "on the ground" and the implications of same for the timing of envisaged development. On 7th December, 2018 the Board approved the making of the proposed amendments on the basis that they satisfied the criteria of Section 170A(3)(b) of the Planning and Development Act 2000, as amended, and as they were of an immaterial nature given that there would be no increase or alteration to the quantum of residential and employment development proposed which would impact on the overall scheme objectives or the character of the overall Cherrywood Strategic Development Zone area. The need for Strategic Environmental Assessment (SEA) and Appropriate Assessment (AA) did not arise

due to the limited nature of the amendments and in light of the scope of the original SEA and AA procedures already completed for the adopted scheme. These amendments comprise Amendment No. 5 of the Cherrywood SDZ Planning Scheme.

- 1.7. On 25th October, 2019 another application was lodged under **ABP Ref. ABP-305785-19** by Dún Laoghaire Rathdown County Council to amend the approved Planning Scheme. That amendment sought to revise the car parking standards for the Cherrywood lands having regard to the updated '*Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities*'. The Board approved those minor amendments on 8th January, 2020 having determined that they satisfied the criteria listed in Section 170A(3)(b) of the Act and were not of a material nature. The need for Strategic Environmental Assessment (SEA) and Appropriate Assessment (AA) did not arise due to the limited nature of the amendments and the scope of the original SEA and AA procedures already completed for the adopted scheme. These amendments comprise Amendment No. 6 of the Planning Scheme.
- 1.8. More recently, Dún Laoghaire Rathdown County Council lodged an application under **ABP Ref. No. ABP-308753-20** for a further amendment of the Planning Scheme with respect to the re-alignment of a portion of the 'Beckett Road' for reasons including cost and the duration of the construction works (as emerged from engineering studies of the proposed alignment and design studies of the alternative route / alignment) which would also result in minor revisions to the layout and zoning of adjoining lands (the amendment also sought to revise typographical errors in the text of the planning scheme). This amendment was approved by the Board on 14th April, 2021 as it satisfied the criteria of Section 170A(3)(b) of the Planning and Development Act 2000, as amended, and was not considered to be of a material nature given the limited potential to impact on the overall scheme objectives or the character of the overall Cherrywood Planning Scheme area. It is identified as Amendment No. 7 of the Scheme.

2.0 The Process

- 2.1. The process whereby amendments to a planning scheme for a Strategic Development Zone (SDZ) can be made is set out in Section 170A of the Planning and Development Act, 2000, as amended.
- 2.2. A summary of the statutory provisions is provided as follows.
- Under subsection (1) of this Section, a Planning Authority may make an application to the Board to request an amendment to a planning scheme.
 - Under subsection (2), the Board shall make a decision as to whether the making of the proposed amendment constitutes the making of a material change to the planning scheme.
 - Under subsection (3)(a) where the amendment fails to satisfy each of the criteria listed in subsection (3)(b), the Board shall require the planning authority to amend the planning scheme in compliance with the procedure laid down in Section 169 of the Act. The criteria detailed in subsection (3)(b) are that the amendment:
 - (i) would not constitute a change in the overall objectives of the planning scheme concerned,
 - (ii) would not relate to already developed land in the planning scheme,
 - (iii) would not significantly increase or decrease the overall floor area or density of proposed development, and
 - (iv) would not adversely affect or diminish the amenity of the area that is the subject of the proposed amendment.
- 2.3. In the event that the making of the amendment would result in changes that would only be minor in nature, then, provided there is no need for Strategic Environmental Assessment or Appropriate Assessment, the Board may, under subsection (4)(a), approve the amendment to the planning scheme.
- 2.4. In addition to the provisions of Section 170(3)(b) whereby failure to satisfy the criteria listed in subsections (i)-(iv) would, by definition, render the proposed amendment a material change to the planning scheme which would trigger the procedures set out under Section 169, there is also the possibility that, notwithstanding adherence to the

criteria of Section 170(3)(b), the proposed amendment could nevertheless be considered material by reference to Section 170(4)(b) of the Act thereby triggering the procedures set out in the remainder of Section 170A. In such circumstances, the Board would be required to consider the need for SEA and / or AA under Section 170A(5) as regards the proposed amendment, or an alternative amendment of no greater significance, and to require the planning authority to undertake the preparation of same as necessary. Subsection (7) requires the planning authority to undertake a notification and consultation exercise with subsection (8) thereafter requiring the planning authority to prepare a report on the submissions and observations received as a consequence of this exercise. That report is to be prepared in accordance with the provisions set out in subsection (9) and the Board shall subsequently, under sub-section (10), have regard to this report in its decision-making.

- 2.5. Under subsection (11), and subject to any SEA and/or AA obligations, if the Board has determined to make the proposed amendment (or its alternative) under subsection (4) then the planning scheme shall be so amended and the planning authority and any person who made a submission or observation in accordance with subsection (7) notified accordingly.

3.0 The Proposal

3.1. Background:

- 3.1.1. The primary purpose of the proposed amendment (noting that an updated copy of the amendment and the accompanying documentation was submitted to the Board on 15th June, 2021 in order to correct a typographical error identified by the planning authority in the text of the amendment as originally lodged) is to increase building heights in Cherrywood at certain locations in light of a review carried out by the Cherrywood Development Agency Project Team (DAPT) in response to SPPR 3(B) of the ‘*Urban Development and Building Heights, Guidelines for Planning Authorities, 2018*’ which requires the following:

‘It is a specific planning policy requirement that where;

(B) In the case of an adopted planning scheme the Development Agency in conjunction with the relevant planning authority (where different) shall,

upon the coming into force of these guidelines, undertake a review of the planning scheme, utilising the relevant mechanisms as set out in the Planning and Development Act 2000 (as amended) to ensure that the criteria above are fully reflected in the planning scheme. In particular the Government policy that building heights be generally increased in appropriate urban locations shall be articulated in any amendment(s) to the planning scheme.'

- 3.1.2. In this regard, the DAPT's review of the Planning Scheme was informed by a number of technical background reports relating to urban design, micro-climate factors, ecology & infrastructural carrying capacity, in addition to a non-statutory consultation open to members of the public and interested parties.
- 3.1.3. The accompanying '*Contextual Background Paper to Proposed Amendment No. 8*' details how consultants were commissioned to carry out an independent review of building heights in the Planning Scheme from an urban design perspective. The resulting '*Background Technical Guidance Document*' concluded that whilst the building height ranges in the approved Planning Scheme accorded with national, regional and local policy, some increases in building height could be considered on urban design grounds where such additional height would not impact on surrounding development, particularly existing residential construction within and surrounding the scheme area, and where such building height increases would not impact on sensitive sites (protected structures & sites with protected flora or fauna) and would not interfere with protected views outlined in Section 2.11 of the Scheme. It proceeds to recommend that the base building heights illustrated on Map 2.3: '*Building Heights*' of the Planning Scheme be maintained as approved with any additional height to be located in those areas indicated by new dotted lines to allow for better street enclosure and improved urban design. It is further stated that the increased building heights at the locations identified should only be permitted where it can be demonstrated as part of a planning application that they accord with the new assessment criteria (Section 2.9.1) to be inserted into the Planning Scheme.
- 3.1.4. The Loci '*Background Technical Guidance Document*' also recommended that no additional height be provided in the 4 No. Town Centre quadrants for the following reasons:

- The development of the town centre is subject to the Urban Form Development Framework (UFDF) which was a modification imposed as part of the Board's approval of the original Planning Scheme.
- The UFDF for Cherrywood town centre was the subject of a two-year collaborative process and was approved in 2017 with the first planning application for the centre being lodged in September of that year. The design and layout were subject to detailed analysis as regards environmental and amenity considerations but particularly in respect of microclimate, sun lighting and daylighting impacts. In this regard, the Board is referred to the accompanying '*Cherrywood Town Centre Building Height Review – Skylight, Sunlight and Shadow Analysis*' prepared by Chris Shackleton Consulting Ltd. (CSC) which examines the impact of increased height on the private and communal open spaces associated with residential development, as well as the impact on light in some apartments, in the town centre.
- Quadrants TC1, TC2 & TC3 already benefit from planning approvals close to the maximum quanta and plot ratio permissible while TC2 & TC4 are at an advanced stage of construction with excavations also having started on TC1. It is considered that further development on those sites with permission would be limited as any increase in building height would likely result in a decrease in amenity or require the permitted building heights to be reduced on the southern sides of the urban blocks to allow for an acceptable level of sunlight and daylight into amenity spaces and apartments.
- Permission has been granted on the southern part of TC3 for 194 No. 'Build-To-Rent' apartments and 13,475m² of High Intensity Employment space (PA Ref. No. DZ20A/0052).
- The building height review does not make specific recommendations for changes to the building height controls where it is clear that substantial baseline environmental and amenity studies would be required as is the case for the town centre. The Background Technical Guidance Document states that '*the analysis suggest that any increase in building height in the Town Centre based on the current street and space network and block layout would result in a deterioration in sun lighting and daylighting conditions. A*

substantial and comprehensive review of the street and space network and the sizing and shaping of urban blocks, streets and spaces, would therefore be required before additional height could be considered in the Town Centre’.

This would require a complete review of the UFDF.

- Permitted building heights in the town centre range from 3 – 9 storeys.
- The Background Technical Guidance Document has assessed the UFDF against the ‘*Urban Development and Building Heights, Guidelines for Planning Authorities*’ and has concluded that the town centre already accords with the guidance.

3.1.5. The DAPT’s review of the Planning Scheme has also been informed by the ‘*Cherrywood Town Centre Building Height Review – Skylight, Sunlight and Shadow Analysis*’ prepared by CSC which sets out an evidence-based rationale to restrict additional height in the town centre having regard to micro-climate analysis and modelling of scenarios for additional floors on each of the town centre quadrants. This report notes that the design and building heights as permitted under PA Ref. No. DZ17A/0862 for TC1, TC2 & TC4 and as proposed under PA Ref. No. DZ20A/0052 for TC3 have already been well iterated at design stage to achieve the maximum heights and density / plot ratio while maintaining the minimum required light at ground level. The report does not recommend additional height in the town centre as it appears from a preliminary analysis of the permitted and proposed residential blocks that it would impact on the ground level amenity spaces resulting in them being in shade for much of the year to the detriment of the apartments and contrary to the UFDF and national guidelines. CSC have also assisted in the preparation of a short technical guidance note to be inserted into the Planning Scheme under a new Appendix I: ‘*Guidance with regard to Sunlight and Daylight Assessment of Proposed Developments*’.

3.1.6. Density ranges in the Planning Scheme, particularly on the RES3 & RES4 sites (which are located directly adjacent to Luas stops and services in the town and village centres), were also reviewed having regard to the ‘*Sustainable Urban Housing, Design Standards for New Apartments, Guidelines for Planning Authorities, 2018*’ which introduced a reduced gross and net minimum apartment size from that which had been utilised in the original planning scheme (the ‘Town’ and ‘Village’

Centres had already received an uplift in dwelling numbers under Amendments Nos. 1 – 4 having regard to the reduced apartment sizes and noting that development on those mixed-use sites is based on plot ratio rather than density). Accordingly, the proposed amendment seeks to increase the permissible residential density ranges, particularly on the RES3 & RES4 sites which are more likely to consist primarily of apartment-type development due to their high density and location, to the effect that the maximum residential quantum of the Scheme would increase to c. 10,500 No. dwelling units (an uplift of c. 24% in the number of dwellings which may be accommodated on the residential zoned sites). This is considered to be the maximum number of new homes the physical and social infrastructure of the Scheme can sustainably support.

- 3.1.7. The carrying capacity of the infrastructure in the Cherrywood Planning Scheme is stated as being underpinned by a series of traffic studies and the Cherrywood Common Infrastructure Implementation Plan, 2008. In this respect, it was envisaged during the preparation of the original Draft Planning Scheme that the physical infrastructure could accommodate just over c. 10,000 dwellings (10,073 No.) and 350,000m² of High Intensity Employment.
- 3.1.8. In terms of social infrastructure, it is acknowledged that the population increase consequent on the proposed amendment (and Amendment No. 7 as approved) i.e. an increase of c. 1,000 No. persons over the maximum residential population envisaged in the Draft Scheme, could have implications as regards the provision of adequate green infrastructure, schools, and retail & non-retail services.
- 3.1.9. In terms of Class 1 & 2 open space, when the maximum number of dwellings in the Draft Planning Scheme (10,073 No.) was reduced by the Approved Scheme (8,786 No.), so too was the provision of Class 1 open space (i.e. those areas providing for active recreation in the form of playing fields and sports grounds which require a critical mass of population / development). However, Ticknick Park was ultimately constructed slightly larger than originally planned due to the need to avoid previously undetected archaeology and therefore it can accommodate this additional area of Class 1 open space. Accordingly, it is proposed to update Table 5.1: *Main Classification of Open Space* of the Scheme to reflect the increase in Class 1 open space from 29.7 to 32.5 hectares (+9.4%). Since the approval of the Planning Scheme there has also been a greater emphasis placed on the development of

greenways for walking and cycling and the promotion of ecology / green corridors, all of which further compliment the provision of Class 1 open space.

- 3.1.10. It is also proposed to increase the building heights on four of the six school sites in Cherrywood (i.e. excluding the primary schools at Priorstown and directly adjacent to Tully Park) so as to allow for an increase in the capacity of these sites, if required, in line with the increased number of new homes consequent on the proposed amendment. These revisions have been subject to consultations with the Department of Education and Skills which is satisfied that there is sufficient school capacity in Cherrywood to cater for the increased maximum residential population envisaged by the proposed amendment.
- 3.1.11. Notably, it has been indicated that the provision of a residential quantum beyond the c. 10,500 No. dwellings proposed as part of this amendment would require a review of the social infrastructure to be provided to support the Planning Scheme, with particular reference to schools and the provision of Class 1 green infrastructure.
- 3.1.12. With respect to retail & non-retail service provision, having regard to the projected population increase, combined with emerging trends in retail, it is not considered necessary to increase the level of retail & non-retail development as the quantum already provided for in the Scheme can continue to support the needs of the catchment population.
- 3.1.13. In addition to the foregoing, the proposed amendment includes an updated Appendix E: '*Hydrogeology*' in relation to 2 No. sets of Tufa Springs (Nos. 5 & 11) which were discovered during the drafting of the original Planning Scheme. Although indicative protection zones for each of the Tufa Springs were included in the approved Planning Scheme, Section 7.2 of Appendix 'E' of that Scheme recommended that if development were to occur in those areas, then further targeted hydrogeological site investigations would need to be carried out to get a better understanding of the hydrogeological system feeding the springs. Accordingly, the DAPT commissioned JBA Consulting in 2019 to carry out additional site investigations which found that the catchment and protection zone for Tufa Spring No. 5 was much larger than previously thought while it was also fed by an underground karst valley. Further additional height is to be assigned to some of the sites within this protection zone for the following reasons:

- To provide better frontage onto Grand Parade / Tullyvale Road.
- To allow for some additional flexibility in terms of development options noting that the design of developments on these sites may require well designed podium / above ground car parking as significant excavation may not be possible.

3.1.14. In this regard, it is envisaged that the design and layout of the foregoing sites will be informed by further investigation and testing to be carried out by the applicant / landowner as per the amendments proposed to Appendix 'E'. It has not been possible to confirm whether the maximum densities for these sites are achievable, however, the DAPT is confident that development within the specified density range can be achieved subject to designs according with the requirements set out in Appendix 'E' as proposed to be amended.

3.1.15. Therefore, by way of summation, the review of the Cherrywood Planning Scheme undertaken pursuant SPPR 3(B) of the '*Urban Development and Building Heights, Guidelines for Planning Authorities, 2018*' seeks:

- To increase building heights in some locations by 1 - 2 storeys subject to certain criteria and based on good urban design principles.
- To increase the permissible residential density ranges, particularly on RES3 & RES4 sites, with the effect of increasing the maximum quantum of residential development to c.10,500 No. dwellings (up from 8,878 No. units as approved by Amendment No. 7).
- To incorporate relevant and related updates in terms of design criteria, daylight & sunlight analysis, and hydrogeology.

3.1.16. The Planning Authority has not specifically indicated if it considers the proposed amendment to be of a material nature by reference to Sections 170A(3)(b) or 170A(4)(b) of the Act. However, having considered the increased figure of 10,500 No. dwellings in screening the proposed amendment for the purposes of Strategic Environmental Assessment and Appropriate Assessment, it has been submitted that it would not likely result in significant environmental effects or give rise to any effect on the ecological integrity of any European Sites alone or in combination with any other plans, programmes, projects etc. and consequently a Stage 2 Appropriate Assessment is not required.

3.2. The Planning Authority’s Proposed Amendment:

3.2.1. The proposed amendment entails extensive changes to the text, tables, and mapping of Chapters 2, 5 & 6 of the Cherrywood Planning Scheme in addition to the renaming of Appendix ‘E’ (as ‘*Tufa Springs Mitigation Requirements*’) and the insertion of new annexes to same, the provision of a new Appendix ‘H’: ‘*Indicative Street Sections showing Proposed Maximum Building Heights*’ (noting that the original Appendix ‘H’ was deleted in its entirety as part of Amendment No. 7 of the Scheme), and the inclusion of a new Appendix ‘I’: ‘*Guidance with regard to Sunlight and Daylight Assessment of Proposed Developments*’. The Planning Authority has submitted a document which highlights the proposed amendments to the current Planning Scheme and the changes can be summarised as follows:

3.2.2. Chapter 2: ‘Proposed Development in Cherrywood’:

Page 13: Table 2.2: ‘*Overall Development Quantum Range*’:

Existing	Proposed
<p><i>Village Centre Sq.m.:</i></p> <p>(B) Max quantum: 61,625</p> <p>D = (B-C) Balance Max Future Quantum: 61,625</p>	<p>71,925</p> <p>71,925</p>
<p><i>Residential:</i></p> <p>(B) Max quantum: Circa 8,786</p> <p>(C) Development Permitted / Constructed Feb 2012: 600 units</p> <p>D = (B-C) Balance Max Future Quantum: Circa 8,186</p>	<p>Circa 10,500</p> <p>Circa 600 units</p> <p>Circa 9,906</p>
<p><i>Class One HA:</i></p> <p>(B) Max Quantum: 29.7</p> <p>D = (B-C) Balance Max Future Quantum: 29.7</p>	<p>32.5</p> <p>32.5</p>

Page 13: Table 2.3: 'Town and Village Centre Development Quantum Ranges':

Existing	Proposed
<i>Tully:</i> Min / Max Gross Residential Floor Space Sq.m.: 12,000/18,000	12,000/ 19,500
<i>Lehaunstown:</i> Min / Max Gross Residential Floor Space Sq.m.: 9,000/12,000	9,000/ 14,800
<i>Priorsland:</i> Min / Max Gross Residential Floor Space Sq.m.: 9,000/12,000	9,000/ 18,000
<i>Max Totals:</i> Min / Max Gross Residential Floor Space Sq.m.: 150,000/192,000	150,000/ 202,300

Page 14: Table 2.4: 'Town and Village Centre Plot Ratio Ranges':

Existing	Proposed
Tully: Max Plot Ratio: 1:2.2	1:2.3
Lehaunstown: Max Plot Ratio: 1:2	1:2.3
Priorsland: Max Plot Ratio: 1:2	1:2.5

Section 2.7.2: 'Residential Density Range and Housing Mix' is to be amended to reflect the following changes:

- The new maximum of 10,500 No. residential units envisaged by the Scheme.
- A maximum of c. 2,160 No. residential units to be located in the Town Centre and the 3 No. Village Centres.
- That the total quantum of residential land in the Scheme can support up to 7,747 No. dwellings.

Page 15: Table 2.9: ‘Residential Development Density Ranges and Development Yield’:

Existing		Proposed
Res 1:	Max Density Range: 50	55
	Max Units: 195	215
Res 2:	Max Density Range: 70	75
	Max Units: 3,073	3,338
Res 3:	Max Density Range: 100	145
	Max Units: 2,130	3,161
Res 4:	Max Density Range: 125	175
	Max Units: 738	1.033
Mixed Use Areas:	Max Units: Circa. 2,050	Circa. 2,160
Totals:	Max Units: Circa 8,786	Circa. 10,500

In Section 2.7.4: ‘Part V Provisions’, the reference to the Development Plan requirement for 20% social and affordable housing is to be deleted from the text of Specific Objective PD 6.

The text within Section 2.7.5: ‘Existing Residential Dwelling Houses’ and Section 2.8: ‘Urban Form’ is to be amended to address minor typographical errors & omissions and to include for the provision of an additional ‘Design’ criterion within the latter.

On Page 16 of the Scheme, it is proposed to amend each of the Specific Objectives through the addition of a topic heading and / or revisions to the text of the objectives themselves.

- **PD 7: Design Statement:**

The Planning Scheme seeks to promote the development of each area as a distinct and legible new neighbourhood with an individual character achieved through the full consideration of the site’s context, development layout, street pattern, landscaping, open space, movement network as well as the

arrangement of development blocks (form, scale, height, design, materials) and the detailing of buildings and landscaping.

In this regard a design statement referring to the character of the specific development area shall be submitted with each application. This shall have regard to the unique character of each Development Area as set out in Chapter 6 and shall set out a baseline understanding of the local context and an analysis of local character and identity noting Section 2.8 Urban Form and specific objectives PD 8 – PD 29. Refer also to Section 2.9.1 Criteria for assessing Building Height in the Planning Scheme.

The Design Statement shall demonstrate and not be limited to:

- How the development enhances the surroundings.
 - How the development connects with its surroundings whether visually, historically, or physically in terms of permeability.
 - How the development responds to the characteristics of the site and any features (natural, historical or otherwise) on site.
 - How the identity of the development is one that is attractive and distinctive.
 - That the development consists of a coherent built form.
 - Accessibility and ease of movement.
 - Enhances and optimises nature.
 - The provision of public spaces that are safe, social and inclusive.
 - The provision of appropriate uses and integration of those uses.
- **PD 8: Distinctive Neighbourhoods:**

Each individual neighbourhood will be locally distinct, created by the design, detailing and materials of buildings and landscape by including individual features such as public art and civic landmarks to form its character. It should incorporate focal points utilising views in and out of the area as identified in Section 2.11.

- **PD 9: Principal Frontages and Streetscape:**

To provide for principal frontages in each development plot to define strong streetscape elements, turn corners on public roads, and enclose and overlook amenity open space areas and green routes. These are identified on Map 2.4 and are indicative in length to allow for sufficient flexibility in breakages and access points.

Streets shall be a focus of activity, creating active frontages with street accesses into buildings animating the public realm. They shall be designed as places, not just for cars but as a distinct component of the public realm and amenity. Homes zones shall form part of the design where appropriate to create shared areas.

- **PD 10: Layout:**

To require the layout of residential areas and block form to create an appropriate network of streets and spaces and maximise pedestrian and cyclist permeability with clear, legible, safe, attractive and direct routes for pedestrians and cyclists along anticipated desire lines, with safe edge treatment, clear sight lines at eye level and an appropriate level of passive supervision.

- **PD 11: Inclusivity and Innovative Building Typologies:**

To ensure that innovative building typologies are used throughout Cherrywood for life long living and that address issues of car parking, private open space, and the need for high quality residential amenity. To ensure that these buildings have a greater engagement with the varying road and green way layout.

- **PD 12: Sustainability, Microclimate and Sunlight / Daylight / Shadow Analysis:**

To ensure a sustainable built form with best practice sustainable design, construction methods and materials, which has regard to solar effect, wind tunnelling prevention and microclimate. Adaptable residential building design, which is responsive to changing technical/economic and social conditions, is generally encouraged.

Applicants are referred to Appendix I of the Planning Scheme which provides guidance on what is required in Sunlight and Daylight assessments submitted as part of planning applications for new developments.

- **PD 13: Massing and Scale:**

Development shall ensure that the scale and proportions of buildings enhance streetscapes and create appropriately scaled spaces and streets between them. Breaks shall be provided so as to allow for pedestrian permeability, penetration of sunlight and daylight and an optimum micro-climate. Long monolithic facades shall be avoided.

- **PD 14: Materials and Detailing:**

To ensure that the distinctiveness of materials is used at various scales, and the detailing of those materials allows for a coherent and high-quality built environment, with an individual palette to identify each neighbourhood. High quality finishes are to be used in the public realm, including external elevational treatment to buildings, structures and public open space. The materials shall be:

- Appropriate to the scale, form and appearance of the building and its surroundings.
- Attractive and durable.
- Contribute to visual appeal and local distinctiveness.

A material and finishes palette guide will be required post-adoption of the Planning Scheme.

- **PD 15: Ancillary Structures:**

To promote the strategic design and appropriate location of bin-stores, service boxes, ESB substations and similar ancillary provision, including meter boxes, into the curtilage of developments or as positive design features that enhance the local streetscape and do not register as visual clutter. Applicants are advised to consider ESB networks requirements with regard to safety, design, location etc. of ESB stations early during the design process of their development.

It is proposed to amend Map 2.3: '*Building Heights*' on Page 16 of the Scheme to delineate those areas where additional floor levels will be permissible and to identify those remaining school sites where construction of 2 - 4 floors will be allowed, all of which will be subject to the proviso that the proposals clearly demonstrate that they address all of the criteria for assessing building height in accordance with Section 2.9.1 of the amended Planning Scheme.

Section 2.8.2: '*Skyline*' on Page 18 is to be amended to include reference to views of the skyline both externally and internally within Cherrywood from existing and future neighbouring developments. In addition, Specific Objective PD 19 will be amended as follows:

- **PD 19:**

Services on roofs, including lift and stair over runs, ventilation and smoke shafts, photovoltaic cells and other plant and services will be so designed and sited so as not to be visually prominent. In this regard:

- Where possible, structures shall be set back from the building edge.
- Natural ventilation of buildings will be promoted.
- Roof structures shall be appropriately screened.
- Materials of structures and screening shall be of a high quality and light in colour.
- All structures on roofs shall be limited in number and size and avoided where possible.

Considerable changes are proposed to Section 2.9: '*Building Heights*' on Page 18 of the Scheme to reflect the primary purpose of the amendment with the revisions effectively amounting to the replacement of the original text (and the deletion of Table 2.11: '*Building Height Ranges*') with an entirely new set of provisions. This aspect of the amendment provides for the insertion of Section 2.9.1: '*Criteria for Assessing Building Heights in the Planning Scheme Area*' which requires planning applications to be accompanied by a Design Statement that demonstrates to the satisfaction of the Planning Authority that the proposed building heights have addressed the newly introduced building height criteria and accord with the building height range for the development site shown on Map 2.3. Any such Design

Statements are to demonstrate how the proposed development addresses the following criteria:

- Where a planning application seeks to utilise the proposed additional floors as set out on Map 2.3, this provision shall apply to the identified street or space frontage only. The extent of the additional floor/s shall be limited in depth and should extend no more than circa 20 metres back from the frontage (as normally defined by the front building line). This shall be clearly demonstrated on the design statement and the drawings submitted.
- All planning applications shall demonstrate the protection of the designated views and prospects in the Cherrywood Planning Scheme. This may require careful positioning and / or articulation or disaggregation of additional floors.
- Demonstrate how the proposal includes appropriate articulation of the roof form and roofscape. This may include disaggregation of additional floors, variation in building / floor heights, and limiting the extent of additional floors along frontages.
- Demonstrate that the proposal results in appropriate street proportions and enclosure. This will need to be supported by detailed street and block sections and studies.
- Demonstrates appropriate continuity and enclosure of public space. This will need to be supported by detailed street and block sections and studies, and an assessment of the impact on microclimate and sun lighting and daylighting. Refer to Appendix I, Guidance with regard to Sunlight and Daylight Assessment of Proposed Developments in this regard.
- Demonstrate appropriate continuity and enclosure of private and semi-private amenity and courtyard spaces. This will need to be supported by detailed block sections and studies, and an assessment of the impact on microclimate and sun lighting and daylighting. Refer to Appendix I, Guidance with regard to Sunlight and Daylight Assessment of Proposed Developments in this regard.
- Demonstrate appropriate regard to the amenity of neighbouring properties and / or sites in terms of shadow impact, overbearing or other amenity consideration, including development which falls outside but is located along the Planning Scheme Boundary.

- Demonstrate that the proposed heights are a clear and additional contribution to the design quality of the proposal, in terms of design rationale and execution, quality and durability of materials and attention to, and execution of, detailing.
- Proposal shall demonstrate maximisation of adaptable and sustainable unit typologies – for example, by maximising passive solar access through the use of dual aspect residential units, ensuring potential for passive ventilation, etc.
- All proposals shall demonstrate that they shall enhance or not detract from sensitive sites including inter alia protected structures, national monuments, archaeological sites, natural habitats, protected treelines and hedgerows and tufa springs.
- Demonstrate that proposals along the Luas line have regard to the Light Rail Environment - Technical Guidelines for Development, December 2020, Transport Infrastructure Ireland. The stated purpose of the Guidelines is to ensure that the operational safety and efficiency of the light rail are maintained while improvements in accessibility, permeability and interfaces with the public realm where possible are facilitated.
- Sites within the protection zone of Tufa Spring No. 5, as identified under Appendix E of the Planning Scheme, or within proximity of Tufa Spring No. 11, are required to demonstrate through site investigations as outlined under Appendix E, and the Ecology Report submitted as part of a planning application that proposed developments on these sites will not cause significant impacts on the Tufa Springs. The consideration of the Tufa Springs may impact the overall design of a development proposal.
- Additional height as set out on Map 2.3 of the Planning Scheme shall only be acceptable where the applicant has clearly demonstrated to the satisfaction of the Planning Authority that these additional floors would not impact adversely on meeting the above criteria.

Specific Objectives PD21, 22 & 23 are also to be amended as follows:

- **PD 21:**

To allow building height within the range of storeys identified and set out on Map 2.3 subject to Section 2.9.1 Criteria for Assessing Building Height in the Planning Scheme. These heights have been informed by the characteristics of each site and are the maximum permissible on each development plot.

- **PD 22:**

Local landmark and feature building elements are acceptable at important locations, where they contribute to the visual amenity, civic importance and legibility of the area. These buildings are identified by the use of upward modifiers and act as focal points or gateways, emphasising hierarchy and urban activity in the Town and Village Centres and public transport nodes, at locations identified in Map 2.3. Upward modifiers are defined as a local increase in height, of an 'element' of a building, up to additional 3 storeys in the Town Centre and up to 2 additional storeys in the Village Centre. Such structures shall be slender in appearance so as to serve their function as a local landmark.

- **PD 23:**

It is an objective to encourage the use of 'adaptable' ground floor residential units with a greater internal floor to ceiling heights of up to 4.5 metres, in Village Centres, along the Grand Parade and adjacent to Cherrywood Town Centre where increased overall building heights are proposed.

3.2.3. **Chapter 5: 'Green Infrastructure':**

Page 51: Table 5.1: '*Main Classification of Open Space*':

	Existing	Proposed
Outdoor Sports: Ticknick Park	circa 12.2 ha	circa 15 ha
Amenity Open Space, Class 1 (sub-total)	circa 29.7 ha	circa 32.5 ha

The text within Section 5.2.1: '*Components of the Cherrywood Way*' is to be amended to reflect the increased population of the Scheme area consequent on the

proposed amendment and associated revisions to the proportional provision of open space and incidental green infrastructure.

Specific Objective GI 61 is to be amended (to refer to 'significant impact' as opposed to 'net effect') as follows:

- **GI 61:**

Ensure the protection of calcareous (tufa) springs and the area surrounding them by having no significant impact on the hydrogeological and other physical conditions on which these springs rely. Any Planning Application that is located within the hydrogeological catchment of these areas as outlined in the protection zone map of the Hydrogeological Study in Appendix E will have to be accompanied by evidence of how this will be achieved. Collection of hydrogeological data may be required to prove that there will be no significant impact on these features.

3.2.4. **Chapter 6: 'Development Areas':**

On Page 64 of the Scheme (Section 6.1: '*Development Area 1: Lehaunstown*') it is proposed to amend Specific Objective 'DA 9' to 'DA 9(a)' and to insert a new part to be known as DA 9(b):

- **DA 9(b):**

With regard to the same Res 4 Plot, the applicant shall follow the Hydrogeology Guidance outlined in Appendix E of the Planning Scheme with regard to the design of proposed development on sites within the catchment sensitivity zone of Tufa Spring No. 5 in order to protect the hydrology source, as detailed in Chapter 5 Green Infrastructure (see GI30 and Appendix E).

The layout and design of proposed developments on sites identified as been within the protection zone of the Tufa Springs, as indicated in Appendix E of the Planning Scheme, shall be informed by site investigations, as outlined in Appendix E, which are to be carried out in advance of the preliminary design of any proposals for these sites. Proposals on these sites shall demonstrate that they will have no significant impact on Tufa Spring No. 5 and shall be accompanied by an ecology report demonstrating the same.

Page 64: Table 6.1.1: 'Sub-headings Lehaunstown Village Centre and Residential Development':

Lehaunstown Village Centre		
Residential Village Centre	Existing	Proposed
Residential Dwelling Units: Max	Circa 130	Circa 160
Gross Residential Floor Area Sq.m.: Max	12,000	14,800
Total Floorspace Quantum Lehaunstown Village Centre sq.m.: Max	18,290	21,090
Plot Ratio: Max	1:2	1:2.3
Building Height in Storeys: Max	5	6

Residential Development		
	Existing	Proposed
Res 1: Density Range	35-50	35-55
Res 2: Density Range	45-70	45-75
Res 3: Density Range	65-100	65-145
Res 4: Density Range	85-125	85-175
No. of Dwellings on Residential Lands: Max	1,818	2,251
Overall Residential Density: Max	95 per ha	127 per ha
Building Height in Storeys: Max	5	6
No. of Dwellings in Village Centre: Max	130	160
Total No. of Residential Dwellings: Max	Circa 1,818	Circa 2,411

Page 68: Table 6.2.1: 'Sub-heading Residential Development in Development Area 2 Cherrywood':

Residential Development		
	Existing	Proposed
Res 1: Density Range	35-50	35-55
Res 2: Density Range	45-70	45-75

Res 3: Density Range	65-100	65-145
Res 4: Density Range	85-125	85-175
No. of Dwellings on Residential Lands: Max	363	450
Overall Residential Density: Max	91 per ha	113 per ha
Building Height in Storeys: Max	5	6
Total No. of Residential Dwellings: Max	Circa 1,963	Circa 2,050

Page 71: Table 6.3.1: 'Development Type and Quantum for Development Area 3 Priorsland, Sub-Headings Priorsland Village Centre and Residential Development':

Priorsland Village Centre		
Residential Village Centre	Existing	Proposed
Residential Dwelling Units: Max	Circa 130	Circa 200
Gross Residential Floor Area Sq.m: Max	Circa 12,000	Circa 18,000
Total Floorspace Quantum Lehaunstown Village Centre Sq.m.: Max	16,775	22,775
Plot Ratio: Max	1:2	1:2.5
Building Height in Storeys: Max	4	6

N.B. The reference in the above table to 'Lehaunstown' Village Centre is in error and should instead refer to 'Priorsland' Village Centre.

Residential Development		
	Existing	Proposed
Res 1: Density Range	35-50	35-55
Res 2: Density Range	45-70	45-75
Res 3: Density Range	65-100	65-145
Res 4: Density Range	85-125	85-175
No. of Dwellings on Residential Lands: Max	785	Circa 1,019
Overall Residential Density: Max	85 per ha	111 per ha
Building Height in Storeys: Max	5	6
No. of Dwellings in Village Centre: Max	Circa 130	Circa 200

Total No. of Residential Dwellings: Max	Circa 915	Circa 1,219
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On Page 72 of the Scheme (Section 6.4: ‘*Development Area 4: Domville*’) it is proposed to amend Specific Objective DA 30 to the following:

- DA 30:

- a) To provide a Class 2 open space pocket park in close proximity to the Springs and to follow the Hydrogeology Guidance outlined in Appendix E of the Planning Scheme with regard to the design of proposed development on sites within the catchment sensitivity zone of Tufa Spring No. 5 in order to protect the hydrology source, as detailed in Chapter 5 Green Infrastructure (see GI30 and Appendix E).
- b) The layout and design of proposed developments on sites identified as been within the protection zone of the Tufa Spring No. 5, as indicated in Appendix E of the Planning Scheme, shall be informed by site investigations, as outlined in Appendix E, which are to be carried out in advance, by the applicant, of the preliminary design of any proposal for these sites. Proposals on these sites shall demonstrate that they will have no significant impact on Tufa Spring No. 5 and shall be accompanied by an ecological report demonstrating the same.

Page 73: Table 6.4.1: ‘*Development Type and Quantum for Development Area 4 Domville, Sub-Heading Residential Development*’:

Residential Development		
	Existing	Proposed
Res 1: Density Range	35-50	35-55
Res 2: Density Range	45-70	45-75
Res 3: Density Range	65-100	65-145
Res 4: Density Range	85-125	85-175
No. of Dwellings on Residential Lands: Min	652	Circa 652
No. of Dwellings on Residential Lands: Max	1,008	Circa 1,292
Overall Residential Density: Max	84 per ha	108 per ha

Building Height in Storeys: Max	4	6
Total No. of Residential Dwellings: Min	1,252	Circa 1,252
Total No. of Residential Dwellings: Max	1,608	Circa 1,892

Page 75: Table 6.5.1: 'Development Type and Quantum for Development Area 5
Druid's Glen, Sub-Heading Residential Development':

Residential Development		
	Existing	Proposed
Res 1: Density Range	35-50	35-55
Res 2: Density Range	45-70	45-75
Res 3: Density Range	65-100	65-145
Res 4: Density Range	85-125	85-175
No. of Dwellings on Residential Lands: Min	357	Circa 357
No. of Dwellings on Residential Lands: Max	543	Circa 586
Overall Residential Density: Max	64 per ha	69 per ha
Total No. of Residential Dwellings: Min	357	Circa 357
Total No. of Residential Dwellings: Max	543	Circa 586

Page 77: Table 6.6.1: 'Development Type and Quantum for Development Area 6
Bride's Glen, Sub-Heading Residential Development':

Residential Development		
	Existing	Proposed
Res 1: Density Range	35-50	35-55
Res 2: Density Range	45-70	45-75
Total No. of Residential Dwellings: Min	93	Circa 93
Total No. of Residential Dwellings: Max	140	Circa 151

Page 79: Table 6.7.1: 'Development Type and Quantum for Development Area 7 Macnebury, Sub-Headings, Non-Residential Development, Commercial Uses and Residential Development':

Non-Residential Development		
	Existing	Proposed
Breakdown for Site HIE 4: Building Height in Storeys	5	6
Breakdown for Site HIE 5: Building Height in Storeys	4	6

Commercial Uses		
	Existing	Proposed
Site CU 2: Building Height in Storeys: Max	4	5
Site CU 3: Building Height in Storeys: Max	3	4

Residential Development		
	Existing	Proposed
Res 1: Density Range	35-50	35-55
Res 2: Density Range	45-70	45-75
Res 3: Density Range	65-100	65-145
Res 4: Density Range	85-125	85-175
No. of Dwellings on Residential Lands: Max	494	802
Overall Residential Density: Max	93 per ha	146 per ha
Total No. of Residential Dwellings: Min	321	380
Total No. of Residential Dwellings: Max	494	802

On Page 81 of the Scheme (Section 6.8: ‘*Development Area 8: Tully*’) it is proposed to insert Specific Objective DA 57:

- **DA 57:**

- a) The applicant shall follow the Hydrogeology Guidance outlined in Appendix E of the Planning Scheme with regard to the design of proposed development on sites within the catchment sensitivity zone of Tufa Spring No. 5 in order to protect the hydrology source, as detailed in Chapter 5 Green Infrastructure (Refer to GI30 and Appendix E).
- b) The layout and design of proposed developments on sites identified as been within the protection zone of the Tufa Springs, as indicated in Appendix E of the Planning Scheme, shall be informed by site investigations, as outlined in Appendix E, which are to be carried out, by the applicant, in advance of the preliminary design of any proposals for these sites. Proposals on these sites shall demonstrate that they will have no significant impact on Tufa Spring No. 5 and shall be accompanied by an ecological report demonstrating the same.

Pages 81 & 82: Table 6.8.1: ‘*Development Type and Quantum for Development Area 8 Tully, Sub-Headings, Tully Village Centre, Non-Residential Development, Commercial Uses and Residential Development*’:

Tully Village Centre		
Residential Village Centre	Existing	Proposed
Residential Dwelling Units: Max	Circa 1390	Circa 200
Gross Residential Floor Area Sq.m: Max	Circa 18,000	Circa 19,500
Total Floorspace Quantum Lehaunstown Village Centre Sq.m.: Max	26,560	28,060
Plot Ratio: Max	1:2.2	1:2.3

N.B. The reference in the above table to ‘Lehaunstown’ Village Centre is in error and should instead refer to ‘Tully’ Village Centre.

Non-Residential Development		
Commercial Uses: Breakdown for Site CU 1		
	Existing	Proposed
Height in Storeys: Max	4	5

Residential Development		
	Existing	Proposed
Res 1: Density Range	35-50	35-55
Res 2: Density Range	45-70	45-75
Res 3: Density Range	65-100	65-145
Res 4: Density Range	85-125	85-175
No. of Dwellings on Residential Lands: Max	1,115	1,198
Overall Residential Density: Max	69 per ha	74 per ha
Building Height in Storeys: Max	4	5
No. of Dwellings in Tully Village Centre: Max	Circa 190	Circa 200
Total No. of Residential Dwellings: Max	Circa 1,305	Circa 1,396

3.2.5. Appendix 'E': Phase 1 Hydrogeology Assessment of the Cherrywood SDZ:

This is to be renamed as '*Appendix E: Tufa Springs Mitigation Requirements*'.

In addition, the original contents of Appendix 'E' are to be referred to as 'Annex A' while a new 'Annex B' comprising the 'JBA Catchment Study' is to be inserted thereafter.

3.2.6. Appendix 'H': Indicative Street Sections showing Proposed Building Heights:

This is a new appendix to be inserted at the end of the Planning Scheme which comprises a series of indicative cross-sections for identified roads.

3.2.7. **Appendix 'I': Guidance with regard to Sunlight and Daylight Assessment of Proposed Developments:**

This is a new appendix to be inserted at the end of the Planning Scheme as regards the assessment of sunlight and daylight. The full text of the appendix is as follows:

'Proposals for development should include technical assessments in accordance with BR209 Site Layout Planning for Daylight & Sunlight A Guide to Good Practice Second Edition 2011 and BS 8206-2: Lighting for Buildings Part 2: Code of Practice for Daylighting. Assessments should include the following:

With regard to neighbouring developments:

- Shadow Impact / Sunlight levels on private gardens, balconies, communal and public space to the 2hr on the 21st March test.
- Impact on habitable windows Skylight – Vertical Sky Component (VSC) test.
- Impact on living room windows Sunlight – Annual and Winter Probable Sunlight Hours (APSH & WPSH) tests.

With regard to the proposed development itself:

- Sunlight level on private gardens, balconies, communal and public space to the 2hr on the 21st March test.
- Light distribution within habitable rooms – Average Daylight Factor (ADF) levels with particular regard to units at the ground and lower floor levels and at corner locations.
- Sunlight availability for living room windows – Annual and Winter Annual Probable Sunlight Hours (APSH & WPSH) tests'.

4.0 **Section 170A(2): Would the proposed amendments make a material change to the Cherrywood Planning Scheme?**

4.1. Procedurally, under Section 170A(2) of the Act, the Board is required to address the question as to whether the making of any proposed amendment would constitute a material change to a planning scheme. Under subsection 3(a), if such an amendment fails to satisfy each of the criteria set out in subsection 3(b), then it is by

definition a material change that triggers the procedures set out under Section 169. However, this does not exhaust the possibility that an amendment may be material, as signalled by subsection 4(b). Thus, if the Board considers that, under subsection 4(a), an amendment is not “minor in nature” and yet subsection 3(b) is satisfied, then its materiality triggers the procedures set out in the remainder of Section 170A, presumably with the intention of informing the view that the Board takes on such an amendment i.e. whether to approve it or an alternative amendment of no greater significance.

(At this point, I would reiterate that the Planning Authority has not specifically indicated whether it considers the proposed amendment to be of a material nature by reference to either Sections 170A(3)(b) or 170A(4)(b) of the Act).

- 4.2. The criteria set out in subsection (3)(b) are that the amendment concerned:
- (i) would not constitute a change in the overall objectives of the planning scheme,
 - (ii) would not relate to already developed land in the planning scheme,
 - (iii) would not significantly increase or decrease the overall floor area or density of proposed development, and
 - (iv) would not adversely affect or diminish the amenity of the area that is the subject of the proposed amendment.

This are considered in turn as follows:

- 4.3. **Would the proposed amendment constitute a change in the overall objectives of the planning scheme?**
- 4.3.1. From a review of the available information, I am satisfied that the proposed amendment will not change the overall objectives of the Planning Scheme as set out under the headings of “Vision”, “Principles”, “Themes”, and “Purpose” within the Scheme itself. In this regard, I would draw the Board’s attention in particular to Section 1.9: ‘*Purpose*’ which states that the aim of the Planning Scheme, in line with National, Regional and County Guidelines and Plans, is ‘*to set out the form, scale and nature of development and supporting infrastructure that will enable the delivery of smart growth that is economically sound, environmentally friendly, and supportive of healthy communities – growth that enhances quality of life*’.

4.4. Would the proposed amendment relate to already developed land in the planning scheme?

- 4.4.1. The development of the wider Cherrywood lands has commenced with construction works underway at various locations throughout the Planning Scheme. To date, a considerable extent of the principal link roads and service infrastructure has been largely completed but is yet to open to the public while construction works are at an advanced stage with respect to the development of the town centre lands located to the east of the Luas line. Elsewhere, some of the parklands (e.g. Tully Park & Beckett Park) have been completed (but are yet to open) while works have commenced on the construction of housing in some locations, most notably, in Development Areas 4 (Domville) & 8 (Tully) (e.g. on those lands between Tully Park and the Luas line). Ground and / or clearance works have also been undertaken in other locations and construction compounds are sited in the vicinity of ongoing works.
- 4.4.2. With respect to the interpretation of what constitutes “already developed land” in the context of subsection 3(b)(ii), I am unaware of any comparable case history which has considered this issue in depth, however, I am inclined to concur with a previous reporting inspector in their assessment of ABP Ref. No. ABP-302223-18 (Cherrywood Amendment No. 5) that the type of scenario that may have prompted this item is one wherein a proposed change of a planning scheme would impact upon lands that have already been developed in a manner that would not previously have been expected. In this respect, it is of relevance to note that other than within Area 7: ‘Macnebury’ where the ‘minimum’ total number of residential dwellings is to be increased from 321 to 380, all other changes sought by the proposed amendment as regards residential development (i.e. changes to the density range and building height provisions) relate to the maximum figure permissible and thus any development already permitted or carried out on the affected lands would nevertheless comply with the specified minimum figure i.e. the development would be unaffected by the proposed amendment. In addition, I am in agreement with the previous inspector’s assessment of ABP Ref. No. ABP-302223-18 which noted that subsection 3(b)(ii) refers to “already developed lands” and so completion, rather than commencement, of development would appear to be the relevant test (for the purposes of clarity, no residential or other development has been completed within

Area 7: 'Macnebury' or elsewhere in the Scheme, with the exception of Cherrywood town centre which is unaffected by the proposed amendment).

4.4.3. Accordingly, on the basis of the foregoing, in my opinion, the proposed amendment satisfies the criteria set down in Section 170A(3)(b)(ii) of the Act.

4.5. **Would the proposed amendment significantly increase or decrease the overall floor area or density of proposed development?**

4.5.1. In assessing whether the proposed amendment will significantly increase or decrease the overall floor area of development proposed within the area of the Planning Scheme, it is of relevance at the outset to note that the amendment does not propose any changes to Cherrywood Town Centre nor is it proposed to alter the quantum of 'High Intensity Employment' or 'Commercial Use' already set out in the approved Scheme. It can also be ascertained from Table 2.3: '*Town and Village Centre Development Quantum Ranges*' (as proposed for amendment) that there will be no alteration to the levels of floorspace allocated for retail, high intensity employment, non-retail, and community uses within the 3 No. village centres. Therefore, it can be discerned from the available information that any additional floor area arising from increased building height and / or density consequent on the proposed amendment will be attributable to the following:

- a) The increase in the maximum residential floor area permissible across the 3 No. village centres (i.e. Lehaunstown, Priorsland & Tully).
- b) The increase in the maximum number of dwelling units permissible on lands identified as 'Residential' on Map 2.1: '*Primary Land Uses*' of the Scheme.
- c) The increased building height permissible on 3 No. of the school sites.

4.5.2. With respect to the village centres, the increase in the maximum building heights permissible within Lehaunstown (+1 storey up to 6-storeys) and Priorsland (+2 storeys up to 6-storeys), in tandem with the changes proposed to the maximum plot ratios in each of the three centres (noting that the maximum building height of 5-storeys in Tully Village Centre is not proposed for alteration), allow for the development of up to 10,300m² of additional residential floorspace across the centres (an increase from 61,625m² to 71,925m² as detailed in Table 2.2: '*Overall Development Quantum Range*' of the proposed amendment). Section 2.7.2 of the amendment envisages that this equates to a maximum increased residential

development yield within the mixed-use town and village centres of circa 110 No. units (as can be derived from the amended Table 2.9) (the average floorspace of each additional unit can therefore be calculated as c. 94m²).

4.5.3. Outside of the town and village centres, on those lands identified as 'Residential' (i.e. Res 1, Res 2, Res 3 & Res 4) within Development Areas 1 - 8, Section 2.7.2 (as proposed) states that the increased building heights and / or density ranges will allow for up to 7,747 No. dwellings, an increase of 1,611 No. units, however, some degree of difficulty arises in ascertaining the additional floorspace consequent on this increased number of dwellings. Given that the nature of housing development on the residentially zoned lands will differ from that within the town / village centres due to the likelihood of a greater prevalence of more conventional 'own-door' dwellings or larger units, some concern arises as to whether it is appropriate to directly compare average unit sizes between the two areas for the purposes of estimating the additional floor area consequent on the proposed amendment. However, in my opinion, it is reasonable to expect the permissible increase in building height to lend itself to increased apartment provision due to the nature of the construction involved. Similarly, I would concur with the Planning Authority's assessment that the proposed increase in the residential density ranges, particularly on the RES3 & RES4 sites, will likely result in any development on those lands consisting primarily of apartment-type development due to their high density and location (such as proximity to the Luas and town / village centres). In this regard, I note that the background contextual paper states that Amendments No. 1- 4 of the Scheme and the proposed amendment have reduced the average gross and net floor areas of apartments in line with the '*Sustainable Urban Housing: Design Standards for New Apartment, Guidelines for Planning Authorities*' i.e. from a gross apartment size of 120m² which was utilised in the drafting of the original Planning Scheme in 2014 to a gross apartment size of 94m² based on the Guidelines. Therefore, on the assumption that all of the additional dwellings (on those lands identified as 'Residential') consequent on the proposed amendment will comprise apartment units with an average floor area of 94m², it can be estimated that the proposal will result in up to 151,434m² of additional residential floorspace as follows:

$$1,611 \text{ No. units @ } 94\text{m}^2 \text{ per unit} = 151,434\text{m}^2$$

4.5.4. However, this figure is subject to a number of caveats in that the average floor area utilised in the calculation (i.e. 94m²) exceeds the minimum overall apartment floor area of 90m² specified for a three-bedroom unit in Appendix 1 of the ‘*Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities*’. It would also seem likely that a proportion of the new apartments permissible will be of the one / two-bedroom variety with a lesser floor area. The overall floor area of any new residential development attributed to the proposed amendment will be further influenced by the floorspace allocated to common / shared areas (e.g. hallways & circulation space) and other factors such as plot ratio. It is also possible that the Scheme lands will not be built-out to the maximum density permissible. Therefore, I would emphasise that the calculation of 151,434m² of additional residential floorspace is purely an estimation.

4.5.5. When taken in combination with the 10,300m² of residential development envisaged in the village centres, the proposed amendment could potentially allow for an additional 161,734m² of floor area across the scheme area:

Additional floorspace across the village centres:	10,300m ²
Additional floorspace across the ‘Residential’ lands:	151,434m ²
Total Additional Floor Area:	161,734m²

4.5.6. Having established the foregoing, it is necessary to consider the significance of the potential increase in floor area in the context of Section 170A(3)(b)(iii) by reference to the floor area already permissible within the Planning Scheme as approved. In this respect, difficulties arise in determining the overall floor area facilitated by the existing Scheme as it is not possible to quantify the floorspace attributable to each of the dwelling types envisaged by the Scheme (e.g. apartments, duplexes, or more conventional houses). If residential development within the Scheme were solely to comprise apartments with an average floor area of 94m², a direct comparison would be possible, however, such an approach would not take account of any change to unit sizes at locations more distant from the Luas / Village Centres etc. nor would it factor in any changes in unit types, such as the inclusion of more ‘own-door’ housing, throughout the Scheme area. Therefore, I would caution the Board of the limitations in applying an average floor area of 94m² to all residential development in the Scheme, however, in the absence of any more detailed information as regards the

floor areas of differing house types, a crude calculation for comparison purposes may be made using that figure.

- 4.5.7. At this point, I would advise the Board that there appears to be an error in the proposed amendment as regards the overall number of dwelling units presently permissible in the existing Planning Scheme. Reference is made in Section 2.7.2 & Table 2.9 of the proposed amendment (No. 8) to the existing Planning Scheme as allowing for a maximum of c. 8,786 No. residential units (to be increased to c. 10,500 as part of the amendment), however, this would not seem to account for the slight increase (92 No.) in the maximum number of permissible units already approved as part of Amendment No. 7 i.e. up to c. 8,878 No. units (similar errors arise in the proposed Table 2.9 as regards the approved maximum number of units within 'Res 3' & 'Res 4'). On further investigation this discrepancy would seem to be attributable to Table 6.7.1 as regards Development Area 7: '*Macnebury*' given that Amendment No. 7 increased the maximum number of units allowable on those lands from 494 No. to 586 No. (a difference of 92 No.) whereas the subject amendment (No. 8) references an increase from the outdated figure of 494 No. to 802 No. units.
- 4.5.8. Other errors arise with respect to the minimum and maximum overall residential densities set out in Table 6.7.1 as proposed for amendment. Firstly, no change is identified to the minimum residential density, however, this is shown to be 69 No. units per ha and not 59 No. units per ha as approved under Amendment No. 7. Secondly, the reference to an existing approved maximum density of 93 No. units / ha is incorrect given that Amendment No. 7 reduced this slightly to 92 No. units / ha.
- 4.5.9. In light of the maximum number of permissible units approved within the Planning Scheme (as per Amendments Nos. 1-7), and by employing an average unit size of 94m², a crude estimation of the overall residential floor area can be made as follows
- $$8,878 \text{ No. units} \times 94\text{m}^2/\text{unit} = 834,532\text{m}^2$$
- (For the purposes of completeness, an equivalent calculation for 8,786 No. units would equate to 825,884m² and, therefore, the difference is comparatively small).
- 4.5.10. By extension, it can be estimated that the proposed amendment may result in the overall residential floor area permissible within the confines of the Planning Scheme increasing by c. 19.3% (i.e. 161,734m²).

4.5.11. While an increase of almost one-fifth in the maximum residential floor area permissible could perhaps be deemed significant, Section 170A(3)(b)(iii) of the Act requires any increase in floor area to be considered in the context of the **overall** floor area of proposed development which, in my opinion, is to be interpreted as extending to include all construction within the Scheme area i.e. non-residential uses such as high intensity employment, commercial, retail, town centre etc. In this respect, I would refer the Board to Table 2.2: ‘Overall Development Quantum Range’ and Table 2.3: ‘Town and Village Centre Development Quantum Ranges’ of the Scheme and my estimation of the residential floorspace which allows for the various maximum quantum floor areas to be calculated as follows:

<i>Town Centre:</i>	362,909m ² (incl. 150,000m ² of residential floorspace by reference to Table 2.3: ‘Town and Village Centre Development Quantum Ranges’)
<i>Village Centres:</i>	61,625m ² (including 42,000m ² of residential)
<i>High Intensity Employment:</i>	350,000m ²
<i>Commercial Uses:</i>	65,000m ² (stated to be a minimum)
<i>Residential:</i>	642,532m ² (i.e. 834,532m ² (8,878 No. units x 94m ² /unit) minus the 192,000m ² of residential floorspace within the town & village centres)
Overall Floor Area:	1,482,066m²

4.5.12. Therefore, on the basis of the above figures, the addition of an estimated 161,734m² of floorspace as per the proposed amendment would equate to a c. 10.9% increase in the overall floor area of development proposed in the Scheme. However, this percentage is actually likely to be lower given that the commercial use floorspace is a minimum requirement while no account has been taken of any floor area intended for educational / school use. In addition, if the average dwelling unit size were to be increased to account for ‘own door’ homes then this figure would reduce further. Furthermore, the calculations are based on the maximum number of units permissible whereas it is possible that the development lands subject to the Planning Scheme may not be built-out to their full potential. It should also be emphasised that the figure of 161,734m² is a crude estimation using a broad-brush calculative approach and should be viewed as such.

- 4.5.13. Having established that the proposed amendment could potentially increase the overall floor area of development permissible within the Scheme by approximately 10%, it remains necessary to determine if such an increase is 'significant' by reference to Section 170A(3)(b)(iii) of the Act. Although the Act does not provide a mechanism by which significance is to be measured, I am inclined to conclude that a c. 10% increase in development floor area could be construed as significant and, therefore, the proposed amendment would involve a material change to the Planning Scheme that should be subject to the procedures laid down in Section 169 of the Act.
- 4.5.14. The second aspect of Section 170A(3)(b)(iii) requiring consideration is whether the proposed amendment would significantly increase / decrease the density of proposed development within the Scheme. It is not entirely clear from this provision how the issue of density is to be calculated and while the term would typically be used to refer to the density of housing, the Act does not distinguish between housing units and other forms of development in the consideration of density i.e. the reference to the density of proposed development would seem to relate to all development types. Given that the designation of an SDZ (and the subsequent adoption of a Planning Scheme) does not necessarily have to relate to residential development, credence is lent to the interpretation that 'density' is intended to refer to all development types. However, to use the floor area of all development proposed on developable lands within the Scheme as a means by which to calculate density would result in a determination of plot ratio as opposed to density.
- 4.5.15. A further complication in establishing the density of development within the Planning Scheme is the site area to be used in any such calculation. For example, the boundary of the Planning Scheme differs to the area designated as a Strategic Development Zone (c. 360 hectares) as it has been reduced to only include lands that benefit from investment in the common infrastructure in the Scheme and to remove land not required for road infrastructure. The Tullyvale and Druid Valley developments have also been excluded so as not to encumber these residents with costs associated with future development. In this regard, I would refer the Board to Table 2.1 of the Scheme which lists the net quantum of land dedicated to each land use, although the 'green infrastructure' lands should be excluded from any net developable area.

4.5.16. A simpler approach would be to consider the issue of residential density in isolation on the basis that the proposed amendment will only affect the level of residential floorspace (with the exception of some additional educational floorspace arising from increases in school building heights) and aims to increase the maximum density ranges on the residentially zoned lands as well as providing for an additional 110 No. dwelling units in the mixed-use areas (the village centres). Table 2.9 of the proposed amendment details the increase in the permissible maximum density ranges for the residential lands and these can also be expressed as a percentage change as follows:

	Max Density Range			Max Units			
	Existing	Proposed	% Change	Existing	Proposed	c. % Change	No. of Units
Res 1	50	55	+10%	195	215	+10%	+20
Res 2	70	75	+7%	3,073	3,338	+8.6%	+265
Res 3	100	145	+45%	2,130	3,161	+48%	+1,031
Res 4	125	175	+40%	738	1,033	+40%	+295

4.5.17. Section 2.7.2: '*Residential Density Range and Housing Mix*' of the Planning Scheme also clarifies that the total quantum of residential land amounts to 76 ha net while the maximum number of dwellings permissible within same is to increase from 6,136 No. to 7,747 No. units. The consequential overall residential densities on these lands (and the percentage increase) can thus be calculated as follows:

Existing: 6,136 No. units / 76 ha = 80.7 units per hectare

Proposed 7,747 No. units / 76 ha = 101.93 units per hectare

Percentage Increase: +26%

(This calculation does not account for the additional 10,300m² / 110 No. dwellings proposed on the village centre lands).

4.5.18. However, it should be noted that these 'overall density' calculations relate to the total quantum of residential land whereas the proposed changes in density are not uniform across the Scheme lands. This is evident from the previous table which shows that the principal increases in density will occur on the 'Res 3' & 'Res 4' lands.

4.5.19. In a broader context, the proposal to provide c. 10,500 No. dwelling units within the Scheme (including those in the village centres), up from c. 8,878 No. units as approved under Amendment No. 7, equates to a possible 1,622 No. additional units or an increase of c. 18.3%.

(Given that the proposed amendment provides for up to 1,721 No. additional dwellings comprising 1,611 No. units on the 'Residential' lands and 110 No. units in the village centres, the new maximum unit total consequent on the changes should be c. 10,599 No. units i.e. 8,878 No. as approved + 1,721 No. proposed. Therefore, there would seem to be some minor discrepancies in the figures provided with the amended Table 2.9 referring to a maximum unit yield of c. 10,500 No. dwellings).

4.5.20. While I would acknowledge that the proposed increases in residential density are not uniformly spread across the Scheme and are principally concentrated on the Res 3' & 'Res 4' lands, on the basis of an overall 26% increase in the maximum density on the residential lands and an increase of c. 18% in the maximum number of dwelling units permissible in the wider Scheme area, it is my opinion that the proposed amendment would involve a material change to the Planning Scheme that should be subject to the procedures laid down in Section 169 of the Act.

4.6. **Would the proposed amendment adversely affect or diminish the amenity of the area?**

4.6.1. The primary purpose of the proposed amendment is to increase building heights in the Planning Scheme at certain locations pursuant to a review carried out in response to SPPR 3(B) of the '*Urban Development and Building Heights, Guidelines for Planning Authorities, 2018*'. In this regard, the amendment has been informed by a series of technical background reports relating to urban design, micro-climate factors, ecology, and infrastructural carrying capacity.

4.6.2. In the context of assessing any adverse effect on or diminishing of the amenity of the area consequent on the introduction of increased building heights & densities within the Planning Scheme, it is apparent that the Cherrywood Development Agency Project Team has taken cognisance of such matters in its preparation of the proposed amendment with the '*Cherrywood Planning Scheme, Review for Building Heights: Background Technical Guidance Document*' (Locis Urban Design, Architecture & Planning) and the '*Cherrywood Town Centre, Building Height Review:*

Skylight, Sunlight and Shadow Analysis' (Chris Shackleton Consulting) considering issues including urban design, shadow impact analysis, and visual impact.

4.6.3. The aforementioned background reports have established that while the building height ranges in the approved Scheme accord with national, regional and local policy, some increases in building height could be considered where they do not impact on surrounding development, particularly existing residential construction, and where the height increases would not impact on sensitive sites (protected structures & sites with protected flora or fauna) or interfere with protected views outlined in Section 2.11 of the Scheme. The amendment subsequently identifies selected frontages (broadly corresponding with the principal frontages identified in the approved Scheme) where increased building heights may allow for better street enclosure and improved urban design, although any such additional height is only to be permitted where it can be demonstrated as part of a planning application that it accords with the new assessment criteria to be inserted as Section 2.9.1 of the Scheme. That criteria includes a requirement for planning applications to demonstrate the protection of designated views and prospects, the provision of appropriate street proportions and enclosure, and that regard has been had to the amenity of neighbouring properties and / or sites in terms of shadow impact, overbearing or other amenity considerations, including development which falls outside but is located along the Planning Scheme boundary. These requirements are supplemented further by reference to the proposed inclusion of Appendix I: *'Guidance with regard to Sunlight and Daylight Assessment of Proposed Developments'* which expressly requires proposals for development to be accompanied by technical assessments compiled in accordance with *BR209 'Site Layout Planning for Daylight & Sunlight, A Guide to Good Practice Second Edition 2011'* and *BS 8206-2: 'Lighting for Buildings Part 2: Code of Practice for Daylighting. Assessments'*.

4.6.4. With respect to the Town Centre, the *'Cherrywood Town Centre Building Height Review – Skylight, Sunlight and Shadow Analysis'* prepared by CSC sets out an evidence-based rationale to restrict additional height in the town centre having regard to micro-climate analysis and modelling of scenarios for additional floors on each of the town centre quadrants. It does not recommend any additional height in the town centre as it appears from a preliminary analysis of the permitted and

proposed residential blocks that any increased height would impact on the ground level amenity spaces resulting in them being in shade for much of the year to the detriment of the apartments and contrary to the Urban Form Development Framework and national guidelines.

- 4.6.5. Having reviewed the available information, including the siting of those locations identified for increased building heights at a distance from neighbouring residential development beyond the boundary of the Planning Scheme, the protections afforded by the criteria against which proposals for increased building height at those locations are to be assessed, the carrying capacity of the social and physical infrastructure planned in the Scheme, and the wider expectation of increased building heights and density of development within the Planning Scheme, it is my opinion that the proposed amendment will not adversely affect or diminish the amenity of the area and, therefore, satisfies the criteria set down in Section 170A(3)(b)(iv) of the Act.

5.0 Conclusion

- 5.1. The proposed amendment constitutes the making of a material change to the Planning Scheme on the basis that it fails to satisfy the criteria set out in Section 170A(3)(b)(iii) of the Planning and Development Act, 2000, as amended. The Board should therefore require the planning authority to amend the planning scheme in compliance with the procedure laid down in Section 169 of the Act.
- 5.2. Should the Board disagree with the foregoing and form the view that the proposed amendment satisfies the criteria set out in Section 170A(3)(b) of the Act, it will nevertheless be required to determine the amendment by reference to Section 170A(4). In the event the proposed changes are held to be of a minor nature, then, provided there is no need for Strategic Environmental Assessment or Appropriate Assessment, the Board may, under subsection (4)(a), approve the amendment to the planning scheme. However, if the amendment constitutes the making of a material change pursuant to subsection (4)(b), and notwithstanding that it is within the criteria set out in subsection (3)(b) b), the amendment will trigger the procedures set out in the remainder of Section 170A.

6.0 Recommendation

- 6.1. That, under Section 170A(3)(a) of the Planning and Development Act, 2000, as amended, the Planning Authority be notified of the Board's decision that the proposed amendment would constitute the making of a material change to the Cherrywood Planning Scheme on the basis that it fails to satisfy the criteria set out in Section 170A(3)(b)(iii) of the Act, and required to amend the planning scheme in compliance with the procedure laid down in Section 169 with that section to be construed and have effect accordingly.

Robert Speer
Planning Inspector

25th November, 2021