



An
Bord
Pleanála

Inspector's Report ABP 310625-21.

Development

Development consisting of demolition of existing dwelling and construction of part-6 to part-8 No. storey over basement residential development comprising 72 No. units, car parking spaces, landscaping and all associated site works.

Location

0.4167 Ha site at Waterville, Old Glenamuck/Golf Lane, Carrickmines, Dublin 18 and, adjacent lands to the west bounded by Old Glenamuck/Golf Lane, and Glenamuck Road, Carrickmines, Dublin 18.

Planning Authority

Dún Laoghaire-Rathdown Co. Council

Planning Authority Reg. Ref.

D21A/0269

Applicants

Ren Shu

Type of Application

Permission

Planning Authority Decision

Refuse permission

Type of Appeal

First Party

Appellant	Ren Shu
Observers	None
Date of Site Inspection	13/10/21
Inspector	Siobhan Carroll

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1.0 Site Location and Description

- 1.1. The appeal site is situated immediately to the east of the roundabout at the Glenamuck Road South. Golf Lane bounds the site to the south-east. Junction 15 of the M50, Carrickmines is situated 280m to the north. Ballyogan Wood Luas stop is located 680m to the north-west. The no. 63 bus route serves the area it links Dún Laoghaire and Kiltarnan.
- 1.2. The Park shopping centre at Carrickmines is located to the west. It contains over thirty retail units and is served by cafes and fast food restaurants. Development has commenced on a neighbourhood centre at Quadrant 3 at 'The Park'. It will contain retail units, restaurant/café uses, cinema and other leisure space, residential units, crèche, office space, car showroom, medical centre and a linear park. It includes a new Ballyogan Link road which will provide pedestrian access from the Ballyogan Wood Green line Luas stop into the park.
- 1.3. Golf Lane is a cul de sac which extends for circa 850m. It is characterised by a mix of new residential development and low density single housing to the east. The entrance to Carrickmines Golf Course is located at the end of the lane. The surrounding areas of Carrickmines, Glenamuck, Kiltarnan and Ballyogan are currently undergoing development as they represents some of the main areas of growth within Dún Laoghaire-Rathdown.
- 1.4. The site has a stated area of 0.4167hectares and it comprises the plot of a detached single storey dwelling 'Waterville'. The property is served by a gated vehicular accessed off Golf Road. The neighbouring property to the east is a large, detached dwelling 'Shanagran'. To the north-east of this is a woodland area where permission has been granted for a scheme containing 482 no. apartments.
- 1.5. The residential scheme Carrickmines Green is situated to the south of the site. It comprises a mix of apartments and dwellings. The apartment buildings within the scheme are five storeys high. Two apartment buildings within the scheme directly address the roundabout at the Glenamuck Road South.

2.0 Proposed Development

- 2.1. Permission is sought for the development consisting of the following;

- Demolition of the existing dwelling (98sq m).
- Construction of a part-6 to part-8 No. storey over basement residential development (7,213sq m) comprising 72 No. units (14 No. studios, 16 No. 1 beds, 40 No. 2 beds and 2 No. 3 beds), all with associated balconies/terraces facing north, south, east and west.
- The development will also include the upgrading of the site entrance from Golf Lane to the south-east of the site.
- Pedestrian access from Glenamuck Road.
- 56 No. car parking spaces.
- Bicycle parking; bin store; boundary treatments; hard and soft landscaping; plant; photovoltaic panels; green roofs; sub-station; lighting; and all other associated site works above and below ground.

3.0 Planning Authority Decision

3.1. Decision

Permission was refused for seven reasons;

1. The proposed development includes a vehicular access directly off the Old Glenamuck Road, close to the Glenmuck Roundabout. It is considered that the proposed development would endanger public safety by reason of traffic hazard due to the additional traffic turning movements generated onto this road, which is the future Kilternan Link Road (included as a Roads Objective in Table 2.2.5 and Table 2.2.6 of the Dún Laoghaire-Rathdown County Development Plan 2016-2022 under the heading 'Cherrywood SDZ (necessary roads infrastructure as detailed in Cherrywood SDZ Planning Scheme)' and shown in Map 4.5 of the Cherrywood Planning Scheme. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. It is considered that the proposed development would endanger public safety due to inadequate safe pedestrian facilities along desire line to/from the proposed development. In the absence of infrastructure, it is considered that

the inadequate safe direct pedestrian facilities along desire lines to/from the proposed development would endanger public safety by reason of traffic hazard and would have a serious adverse impact on the safety of pedestrians to/from the proposed development would endanger public safety by reason of traffic hazard or obstruction of road users or otherwise, as per Clause 4 of the FOURTH SCHEDULE (Reasons for the refusal of permission which Exclude Compensation) of the Planning & Development Act 2000. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

3. The proposed development is considered to represent piecemeal development, in that the proposed access arrangement would set an undesirable precedent for similar vehicular access point off the Old Glenamuck Road which is included as a Road Objective in Table 2.2.5 & Table 2.2.6 of the Dún Laoghaire-Rathdown County Development Plan 2016-2022 under the heading Cherrywood SDZ (necessary roads infrastructure as detailed in Cherrywood SDZ Planning Scheme) and shown in Map 4.5 of the Cherrywood Planning Scheme. This road is expected to be heavily trafficked once completed. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
4. Regarding the future Kiltarnan Link Road, as required by the Cherrywood Planning Scheme, future traffic impacts and safety implications of the proposed access junction into/from the site, have not been assessed by the applicant. In this regard, it is considered that the proposed development could potentially have an adverse impact on the function of the Kiltarnan Link Road, as a Level 2 (50km/h) road and as a sustainable travel route, and on the safety of future users of the Kiltarnan Link Road. In addition, individual vehicular accesses to development sites along the future Kiltarnan Link Road are not favoured and could also potentially undermine the function of the Kiltarnan Link Road. Finally, the designed location of the proposed basement and other proposed infrastructure elements for the proposed development conflict with the location of the Kiltarnan Link Road reservation boundary. It is considered that this could potentially have an adverse impact on the buildability of the future Kiltarnan Link. In this regard, the proposed

development is therefore considered to be inconsistent with Objective PI 14 and Map 4.5 of the Cherrywood Planning Scheme and would be thereby contrary to the proper planning and sustainable development of the area.

5. The proposed development, by reason of its density, scale, massing height and unit mix, is considered to constitute overdevelopment of the site. The proposed development is thereby considered to be contrary to the Ballyogan & Environs Local Area Plan, 2019, the current County Development Plan and to the Urban Development and Building Heights, Guidelines for Planning Authorities (2018; DoHPLG). The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
6. Having regard to the height, scale and proximity of the proposed development to the residential property, Shanagran, it is considered that the proposed development would be visually overbearing when viewed from this property and would result in overshadowing and therefore seriously injure the residential amenities and depreciate the value of this property. The proposed development would therefore materially contravene the zoning objective for the area, which is 'to protect and or improve residential amenity' and therefore would be contrary to the proper planning and sustainable development of the area.
7. The subject site is considered to be located in a suburban location therefore, the Planning Authority considers that the proportion of single aspect apartments in the proposed development would contravene SPPR4 of the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities. The proposed development would fail to provide an adequate level of residential amenity for future occupants of the scheme and would be contrary to Ministerial Guidelines issued to Planning Authorities under Section 28 of the Planning and Development Act, 2000, as amended. The proposed development would therefore, be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The report of the Planning Officer concluded that in relation to the planning history on the site (Reg. Ref. D18A/0579) that the previous reasons for refusal were not fully overcome in the current application. There are serious concerns in respect of the development that it would constitute a traffic hazard and piecemeal development. That it would have a serious impact on the adjoining residential property 'Shanagran' in terms of overbearing and overshadowing. That the proposed height of the development is not accordance with the provisions of the Ballyogan and Environs Local Area Plan 2019 and the Building Height Guidelines for Planning Authorities. The report also referred to concerns in relation to the quality and quantum of open space and car parking. The Development Agency Project Team recommended refusal on the basis that the proposed development would be premature and would result in significant traffic impacts and that it would be inconsistent with the Cherrywood Planning Scheme.

3.2.2. Other Technical Reports

Transportation Planning – Refusal recommended.

Cherrywood Development Agency Project Team – Refusal recommended.

Drainage Planning – Further information requested.

Parks Department – Refusal recommended.

Environment Department – No objection subject to condition.

Housing Department – No objection subject to condition.

Public Lighting – Further information requested.

3.3. Prescribed Bodies

Irish Water – No objection.

Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media – In relation to archaeology it is noted that the development site is located in the historic area of Carrickmines and in proximity to a Recorded Monument (DU026-005001)- Carrickmines Castle). It is recommended that conditions referring to pre-

development archaeological assessment be included in a grant of planning permission.

Inland Fisheries Ireland – The proposed development is located on the Carrickmines river system with the Golf stream running through the site. It is important that salmonid water constraints apply to any development in this area. Should development proceed, best practice should be implemented at all times in relation to any activities that may impact on surface water or riparian habitats. Any discharges to surface streams present on or near the site must not impact negatively on the salmonid status of the system. Comprehensive surface water management measures must be implemented at the construction and operational stage to prevent any pollution of local surface waters.

Environmental Health Officer – the proposal is acceptable subject to conditions.

Transportation Infrastructure Ireland – The Authority will rely on the Planning Authority to abide by official policy in relation to development on/affecting national roads as outlined in DoECLG Spatial Planning and National Roads Guidelines for Planning Authorities (2012), subject.

An Taisce – An objection to the proposed scheme is made. It is noted that part of the site is in flood zone A with the rest of the site in flood zone C. Recently permitted scheme of 482 no. apartments (ABP 309026-20) on the adjacent site

3.4. **Third Party Observations**

- 3.4.1. The Planning Authority received three submissions/observations in relation to the application. The main issues raised concerns regarding traffic generation, the height and scale of the proposed development, overlooking, overshadowing and overbearing.

4.0 **Planning History**

Site

Reg. Ref. D18A/0579 – Permission was refused for the demolition of the dwelling on site 'Waterville' and the construction of 5 no. three-storey 3 bedroom houses with underground basements, a four-storey apartment block containing 8 no. two

bedroom and 4 no. one bedroom apartments with underground basement.

Permission was refused for seven reasons.

Reg. Ref. D11A/0197 & PL06D.239236 – Permission was refused for the demolition of the dwelling on site 'Waterville' and the construction of 19 no. apartments in two blocks

Adjacent Sites

ABP 309026-20 – Permission was granted for a Strategic Housing Development of 482 no. units comprising apartments within 7 no. blocks ranging in height from 6 to 22 stories and a childcare facility, gym and local shop. The site is situated to the north-east of the subject site.

ABP 302336-18 – Permission was refused for a strategic housing development on a site of 2.6 hectares comprising the former residential properties of 'Tintagel', 'Auburn', 'Keellogues', 'Villa Nova' & 'Arda Lodge' and adjoining lands. The site is situated to the north-east of the subject site.

Reg. ref. D18A/0257 & ABP 304396-19 – Permission was granted for development at Quadrant 3, the Park Carrickmines. The development comprises a neighbourhood centre (including retail, retail services and restaurant/café uses), retail warehouses, cinema and other leisure space, residential units, crèche, office space, car showroom, medical centre, linear park and associated infrastructural works. The site is situated to the north-west of the subject site at the Park Shopping Centre.

ABP303945 – Permission was granted for Glenamuck District Roads Scheme which will connect the existing R117 Enniskerry Road with the Glenamuck Road and new link distributor road which will connect to the Ballycorus Road and the R117 Enniskerry Road.

Reg. Ref. D18A/1175 & ABP 304642-19 – Permission was granted for a residential scheme comprising 48 no. apartments within a 4/5 storey block at the Glen, Golf Lane. The site is situated to the east of the subject site.

5.0 Policy Context

5.1. Project Ireland 2040 - National Planning Framework

- 5.1.1. The NPF includes a Chapter, No. 6 entitled 'People, Homes and Communities'. It sets out that place is intrinsic to achieving good quality of life. National Policy Objective 33 seeks to "prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location".
- 5.1.2. National Policy Objective 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".
- 5.1.3. National Planning Objective 13 also 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".

5.2. Section 28 Ministerial Guidelines

- 5.2.1. The following is a list of section 28 Ministerial Guidelines considered of relevance to the proposed development. Specific policies and objectives are referenced within the assessment where appropriate.
- 'Urban Development and Building Heights' Guidelines for Planning Authorities
 - 'Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas' (including the associated 'Urban Design Manual')
 - 'Design Manual for Urban Roads and Streets' (DMURS)

- ‘The Planning System and Flood Risk Management’ (including the associated ‘Technical Appendices’)
- ‘Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities

5.3. Dún Laoghaire – Rathdown County Development Plan 2016-2022

- 5.3.1. The site is zoned Objective ‘A’ with a stated objective ‘to protect and/or improve residential amenity’.
- 5.3.2. The site is zoned ‘Objective A’ which seeks to ‘protect and/or improve residential amenity’. A small section of the site is zoned under the ‘Boundary of the Adopted Cherrywood Planning Scheme’ as it overlaps Golf Lane and relates to planned road linkages to the SDZ area. A portion of the site to the north east is also zoned under ‘Record of Monuments and Places (For Areas of Archaeological Potential)’.
- 5.3.3. Objective 131 relates to lands to the northwest of the site where it is an objective to provide for the development of a Neighbourhood Centre in the north-east ‘quadrant of the Park, Carrickmines, with a net retail floorspace cap of 6000 sq.m. and a leisure facility, which will help meet the existing and future retail and leisure needs of the growth areas of Carrickmines, Stepside-Ballyogan and Kiltiernan-Glenamuck’.
- 5.3.4. SLO 135 relates to the Local Area Plan for Ballyogan and Environs, covering the area within which the subject site lies in.
- 5.3.5. Objective 161 aims ‘to conserve and protect Carrickmines Castle site and to proceed to implement the Carrickmines Castle Conservation Plan 2015-2025’
- 5.3.6. SLO 52 which aims “to implement and develop the lands at Cherrywood in accordance with the approved Strategic Development Zone Planning Scheme.”
- 5.3.7. 6-year and long term roads objectives are outlined in Tables 2.2.5 & 2.2.6 of the operative CDP which include the infrastructure related to the Cherrywood SDZ (necessary roads infrastructure as detailed in Cherrywood SDZ Planning Scheme).

5.4. Ballyogan and Environs LAP 2019-2025

- 5.4.1. The site is located in the Carrickmines Quarter (16-Old Glenamuck Road) as defined in Figure 1.5 – Quarters and Neighbourhoods.

- 5.4.2. Proposed linkages identified in Policy BELAP MOV12 – New Linkages, include links from Glenamuck Link Distributor, The Park Carrickmines and Golf Lane (no.s 17-20 & 27 in Table 4.6)
- 5.4.3. Section 5.1.2 includes a table identifying estimated / approximated capacity for 400 units on development site ‘Golf Lane’
- 5.4.4. Table 5.4 – Target Residential Densities identifies a target density of 55 uph for the subject site area.
- 5.4.5. Table 5.5 – Building Heights states in relation to neighbourhood 16 that ‘The M50 corridor gives capacity for higher buildings in this Neighbourhood
- 5.4.6. Policies BELAP RES3 – Building Height by Neighbourhood, BELAP RES4 – Locations for Higher Buildings and BELAP – Building Height by Scheme, describe the considerations relevant to proposals for taller buildings. The subject site is identified as a suitable location for a “higher building”.
- 5.4.7. Section 5.3.5 describes policies in relation to housing.

5.5. Natural Heritage Designations

- 5.5.1. The nearest Natura 2000 sites are;
- Knocksink Wood SAC is 4.59km to the south of the appeal site.
 - Ballyman Glen SAC is 4.8km to the south of the appeal site.
 - Wicklow Mountains SAC and Wicklow Mountains SPA are 6.17km to the south-west of the appeal site.
 - South Dublin Bay SAC is 5.16km to the north-east of the site.
 - South Dublin Bay and River Tolka Estuary SPA is 5.16km to the north-east of the site.
 - Dalkey Island SPA is 6.3km to the east of the site.
 - Rockabill to Dalkey Island SAC is 5.85km to the east of the site.

5.6. EIA Preliminary Screening

5.6.1. An Environmental Impact Assessment Screening Report was not submitted with the planning application.

5.6.2. Class (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:

- Construction of more the 500 No. dwelling units
- Urban development which would involve an area greater than 2 ha is the case of a business district, 10 Ha in the case of other parts of a built-up area and 20ha elsewhere.

5.6.3. It is proposed to construct 72 No. residential units. The number of dwellings proposed is well below the threshold of 500 dwelling units noted above. The site has an overall area of 0.4167Ha and is located within an existing built-up area of Carrickmines. The site area is well below the applicable threshold of 10Ha. The site is an infill suburban site. The introduction of a residential development will not have a significant adverse impact in environmental terms on the surrounding land uses. It is noted the site is not designated for the protection of the landscape or of natural or cultural heritage. The proposed development is not likely to have a significant effect on any European Site (as discussed in section 7.6). The proposed development would not give rise to waste, pollution or nuisances that differ from that arising from other housing in the neighbourhood. It would not give rise to a risk of major accidents or risks to human health. The proposed development would use the public water and drainage services of Irish Water and Dún Laoghaire-Rathdown County Council., upon which its effects would be marginal.

5.6.4. Having regard to :-

- The nature and scale of the proposed development which is under the mandatory threshold in respect of Class 10 – Infrastructure Projects of Planning and Development Regulations 2011 (as amended)
- The location of the site on lands that are zoned for residential uses under the provisions of the Dún Laoghaire-Rathdown County Development Plan, and the results of the strategic environmental assessment of the Dún Laoghaire-

Rathdown County Development Plan, under in accordance with the SEA Directive (2001/42/EC)

- The location of the site within the existing built-up urban area, which is served by public infrastructure, and the existing pattern of residential development in the vicinity
- The location of the site outside of any sensitive location specified in article 109 of the Planning and Development Regulations 2001 (as amended).
- The guidance set out in the 'Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development' issued by the Department of Environment, Heritage and Local Government (2003), and
- The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended),

5.6.5. I have concluded that by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment and that on preliminary examination an environmental impact assessment report for the proposed development was not necessary in this case.

6.0 The Appeal

6.1. Grounds of Appeal

A first party appeal has been Thornton O'Connor Town Planning on behalf of the applicant Ren Shu. The issues raised are as follows;

- The Planning Authority refused permission under Reg. Ref. D21A/0269 for 7 no. reasons. It is submitted that the key issue refers to whether the supporting documentation provided with the application has proven that there will be no material impact on the implementation of the Kiltarnan Distributor Road as envisaged in the Cherrywood Planning Scheme and whether the part 6 to part 8 storey residential development will negatively impact on the residential amenity of the residential property 'Shanagran' to the east.

- The recent decision of the Board to grant permission on the 20th of April 2021 in respect of the Strategic Housing Development at Golf Lane, Glenamuck Road under ABP 309026-20 is cited as of relevance to the consideration of the current proposal.
- Refusal reason no. 1 refers to potential impacts on the future Kiltiernan Link Road. It is submitted that the Planning Authority in assessment of the proposal did not consider the An Bord Pleanála assessment of the permitted Strategic Housing Development on Golf Lane under ABP 309026-20. It is highlighted that the Board was satisfied that Golf Lane SHD which is significantly larger in scale than the proposed scheme would not adversely impact on the implementation and the operation of the Kiltiernan Link Road in the future.
- The first party dispute that the traffic movements associated with the development would ‘endanger public safety by reason of traffic hazard due to the additional traffic turning movements generated onto this road.’
- A Traffic and Transportation Assessment was prepared by Trafficwise and submitted with the application. In the assessment it is anticipated that traffic at peak hours is 3 no. arrivals and 12 no. departures (15 no. two-way movements). It is noted that the Inspector of the Golf Lane SHD (under ABP Ref. 309026-20) referred to an anticipated 25 no. arrivals and 107 no. (132 no. two-way movements) departures in the morning. In the evening peak 77 no. arrivals and 29 no. departures (108 no. two-way movements) were forecast. The first party submit that the refusal is unwarranted and that the proposed development will not endanger public safety by reason of traffic hazard as a result of the additional traffic turning movements generated onto the road.
- It is highlighted that the Board has very recently considered a much larger scale development with a greater number of movements is appropriate on the future Kiltiernan Link Road. Therefore, it is submitted that there is no tangible evidence to suggest that the proposed development would endanger public safety by reason of traffic hazard due to the additional traffic turning movements generated onto the future Kiltiernan Link Road.

- Refusal reason no. 2 referred to inadequate safe pedestrian facilities along desire lines to/from the proposed development. In response to the matter the first party refer to the report of the Inspector for the Golf Lane SHD ABP Ref. 309026-20. It is noted in the report that ‘the Kiltiernan Link Road is at proposal stage with final design details and approval yet to be formalised’. The report of the Inspector stated, ‘this future road would necessitate the removal of landscaping shown as part of the proposed development, including a number of trees, however as final designs for the road are yet to be formalized, it is not certain exactly how the southern edge of the subject site would alter to accommodate the road...any alteration to the southern edge of the application site to accommodate this road in future would be subject to separate assessment and approval of details for the road. On the basis of the submitted details, I am satisfied that the proposed development is compatible with future aspirations for the road, and that conditions (as described above) can secure this compatibility in the event that planning permission is granted for the proposed development. I am therefore satisfied that the proposed development is not premature pending completion of these works.’
- It is highlighted in the appeal that the Kiltiernan Link Road has remained at a ‘notional stage’ throughout the lifetime of the development plan. The pedestrian and cycle routes proposed under the application are designed to connect to both Glenamuck Road South and Golf Lane. Regarding the pedestrian crossing on the Glenamuck Link Road to ‘The Park’, Carrickmines it is noted a condition attached to the Golf Lane SHD requires the implementation of such a crossing. It is acknowledged that the applicant cannot rely on the delivery of infrastructure on lands outside their control. Therefore, it is suggested that a condition be attached to a grant of permission stating that no units within the scheme can be occupied until the pedestrian infrastructure is delivered.
- It is submitted that the scheme has been designed with due regard to the need for pedestrian connectivity.
- Refusal reason no. 3 refers to piecemeal development. It states that the proposed development is considered to represent piecemeal development in that the proposed access arrangements would set an undesirable precedent

for similar vehicular access point off the Old Glenamuck Road. It is submitted that the recently granted Golf Lane SHD has set a precedent for the appropriate development of these residential zoned lands along Golf Lane including providing vehicular access. The first party question how a single vehicular access point would set an undesirable precedent when an access point to a much larger scheme was very recently granted from the same road and was deemed appropriate. It is noted that an access point already exists to serve the dwelling on site and that a farm gate serves the western portion of the lands. The design team have considered the future development of the Kilternan Link Road and provided in their multi-disciplinary expert opinions a reasonable setback for the implementation of this road infrastructure.

- Refusal reason no. 5 refers the overdevelopment of the site. It states, the proposed development, by reason of its density, scale, massing, height and unit mix, is considered to constitute overdevelopment of the site. It is submitted that Planning Authority in their assessment of the application failed to have regard to the direction provided by the Board in relation to the density of the development. The proposed density is 173 no. units per hectare. The documentation submitted with the application provided robust evidence for the site being considered as a 'Central and Accessible urban Location' having regard to the criteria set out in the Apartment Guidelines, 2020. However, the Planning Officer in their assessment considered that 'the density proposed is significantly higher than the density identified within the Ballyogan and Environs LAP (55uph). The Planning Authority consider that the proposal is compatible to what would normally be expected in a central and accessible urban location and given that the subject site is located in an intermediate suburban location, it is considered excessive.'
- Therefore, it is clear that the Planning Authority would consider that the density would be acceptable in a 'Central and Accessible Urban location' however they consider the site to be an 'Intermediate Suburban Location'. In comparison the Golf Lane SHD scheme recently granted directly to the north of the site has a net density of 268 no. units per hectare. The Planning Inspector in assessing the application stated, 'I also note the proximity of the site to Carrickmines Retail Park, where a range of shops and facilities exists,

albeit lacking a supermarket as highlighted in observer responses. The retail park is an employment location in my view, which also falls under the description of central/accessible locations in the guidelines.'

- It is highlighted that the site is located in close proximity to the Luas Green Line, where 2 no. stops and a closed station (Racecourse) are within 580-680 metres of the site. The closest stop is Ballyogan Wood to the north-west which is circa 10 minutes walk.
- Regarding the height, scale and massing of the proposed development, it is submitted that the height of the development is appropriate to demarcate a key junction of routes and achieve a sufficient density of development for a central and accessible site. The height in the scheme ranges between part 6 storeys to part 8 storeys. It is highlighted that the tallest elements follow the curvature of the Glenamuck Road to the west which is the least sensitive boundary and that the proposal provides an appropriate demarcation of Golf Lane on approach. It is considered that the height and massing of the development would establish an appropriately scaled building at the junction of the future Kilternan Link Road. It is submitted that the design of the building which follows the curvature of the Glenamuck Road ensures that it can be assimilated into its context and provide an attractive urban design solution. The height of the building is stepped down on the eastern side to 6 no. storeys and thus reduces the scale and massing when viewed from the low density dwellings to the east.
- In relation to the height of the proposal it is highlighted that regard should be had to the recently granted Golf Lane SHD where heights of up to 18 no. storeys have been permitted. Therefore, it is submitted that this has set a precedent for the subject lands. The proposed scheme will provide an appropriate step down in heights from the 18 no. storeys permitted on the neighbouring site.
- In relation to the matter of unit mix, the report of the Planning Officer acknowledges that the unit mix within the proposed development has been designed in accordance with the Apartment Guidelines. However, the report of the Planning Officer referred to the mix being below Development Plan

policy. They referred to policy RES7 of the Development Plan and also Section 8.2.3.3(iii) of the Plan which, such that larger schemes over 30 units should generally comprise of no more than 20% 1-bed units and a minimum of 20% of units over 80sq m. It was noted in the report of the Planning Officer that approximately 43% of all apartment units proposed would provide floor areas in excess of 80sq m in area, the one bedroom units of the proposed development would provide for a 22.2% proportion of same. The Planning Officer concluded that the proportion of one bed units would not accord with the provisions of Section 8.2.3.3(iii) of the Plan.

- The Apartment Guidelines, 2020 is the appropriate policy document for assessing the unit mix where no more than 50% one bedroom or studio type units are permitted. It is noted that the report of the Planning Officer accepted that the development comprising 19.4% studio and 22% one bed units was acceptable with reference to the Apartment Guidelines. However, it was concluded that the proposed unit mix was not satisfactory, and it was included in the reason for refusal. It is noted that there are many larger homes in the vicinity of the site including in housing estates in Carrickmines, Kilternan, Glenamuck Road, Ballyogan and Foxrock.
- Refusal reason no. 6 refers to the overbearing nature of the development in relation to the property 'Shanagran'. The first party refute the opinion of the Planning Authority that the proposed development would be a material contravention of the 'Objective A' zoned lands, where it is the stated objective 'to protect and-or improve residential amenity'. The key issue of concern for the Planning Authority referred to the potential for overshadowing and overbearing.
- The Planning Officer considered that the proposed development given its height, orientation of windows and balconies will result in some overlooking into the neighbouring property to the north east 'Shanagran' and south towards 'Beech House'. However, it was noted in the report that given the separation distances proposed between the proposed building and adjoining dwellings and the existing boundaries that the proposal will not unduly compromise the residential amenity of the residential properties in the vicinity by reason of overlooking. It was further stated in the report that it is

considered that the proposal will not unduly comprise the residential amenity of the residential properties within the vicinity by reason of overshadowing. However, it was concluded in the report that concerns arise given the overall height of the building that undue overshadowing will occur onto the adjoining property of 'Shanagran'.

- The documentation submitted with the application includes the Daylight Assessment prepared by BPG3. The technical and quantifiable assessment proves that full compliance with BRE guidelines will be maintained at 'Shanagran' as over 50% of the area assessed is capable of receiving two hours of direct sunlight on the 21st of the March with the proposed development in place. The Daylight Assessment prepared by BPG3 concluded that 'acceptable levels of sunlight access would be retained.'
- In relation to the potential for overbearing from the proposed development, it is reiterated that the recently granted Golf Lane SHD was for a residential scheme which ranged in height from 4-18 storeys and that it is located directly to the north of 'Shanagran'. The distances from 'Shanagran' to the proposed development is similar to that of the Golf Lane SHD scheme. In the case of the Golf Lane SHD scheme, it was noted in the Inspector's report that 'the closest property to the subject site is the dwelling at Creagan. The proposed development is situated a minimum of 27m to the east of Creagan, providing extensive separation distance at this point between the existing dwelling and the proposed block C at 5 storeys in height (with set back 7 storey) at this point.'
- It is noted a similar relationship exists between the current site and 'Shanagran'. A 33.7m minimum separation distance is provided with will ensure that the residential amenity and future development potential of 'Shanagran' is not compromised. A minimum separation distance of 28.4m is provided between the proposed apartment building and the boundary of 'Shanagran'. It is highlighted that the scheme has been designed so that the greatest heights are located closer to the Glenamuck Road where these heights can be more easily absorbed.

- The Inspector in assessing the Golf Lane SHD scheme referred to 18m being an acceptable separation distance to ‘future imagined development’ whereas the subject scheme provides significantly greater distances. A minimum separation distance of 28.4m is provided.
- It is therefore argued that the low density form of development on the adjacent site should not dictate the form of development on the subject lands. Such low density scheme as no longer considered appropriate for sustainability reasons.
- Regarding refusal reason no. 7 which refers to the inadequate proportion of single aspect apartments, it is stated that the site is located in a central and accessible location as determined by the Board in their assessment of the neighbouring Golf Lane SHD scheme. In respect of dual aspect requirements in Central and Accessible locations it is detailed in the Apartment Guidelines, 2020, that, ‘it is a policy requirement that apartment schemes deliver at least 33% of the units as dual aspect in more central and accessible and some intermediate locations, i.e., on sites near to city or town centres, close to high quality public transport or in SDZ areas, or where it is necessary to ensure good street frontage and subject to high quality design.’ The Planning Authority in their submission in respect of the Golf Lane SHD, sought 50% dual aspect units. The Planning Inspector noted in the report referring to that SHD scheme that ‘the Planning Authority state that they consider the subject site to be an intermediate location under the Apartment Guidelines and therefore requires 50% dual aspect...I consider that the application site can accurately be described as a central/accessible location as defined under the guidelines. Therefore, a minimum 33% for dual aspect units applies.’
- It is submitted that the appropriate standard for the development is 33% dual aspect units. The proposed scheme exceeds the minimum 33% dual aspect unit requirement when only counting corner units it would have 38% dual aspect units.
- Regarding car parking, there are 48 no. additional parking spaces for residents of the scheme which represents an overall parking ratio of 0.77 car parking spaces per unit. It is submitted that this is a sufficient quantum of car

parking for this central and accessible location. It is stated in the report of the Planning Officer that, 'Transportation Planning consider, for an owner occupier development in this location, a minimum car parking ratio of 1 space per apartment acceptable with some additional provision of visitor parking, and therefore that the proposed development is deficient in the provision of car parking spaces.' It is noted that the Golf Lane SHD was granted with a parking ration of 0.6 no. car parking spaces per unit under ABP Ref. 309026-20. Therefore, the proposed scheme provides a higher car parking ratio than the permitted development on adjacent lands.

- In relation to open space, it is the opinion of the applicant's Planning Consultants that the Planning Authority misunderstood the landscaping proposals. It was stated in the report of the Planning Officer, 'the Planning Authority has concerns regarding the proposed public open space and its usability. This portion of the site does not appear to be accessible to the public, with only a small area of raised decking/walkway accessing the area. The Planning Authority has concerns regarding the quantity and quality of open space provision.' In relation to proposed wetland habitat, it is stated in the report that 'the overall approach to the retention of this habitat is generally considered acceptable, however, there are concerns that the raised viewing walkway/platform, stepped access and seating area, is the only access to this piece of land. The overall land is not accessible to the public. The usability of this space is unclear as well as its future management.'
- It is set out that the Landscape Report prepared by Stephen Diamond Landscape Architects clearly illustrated that the wetland habitat would be accessible to the public from Glenamuck Road. It is noted that the quality or quantum of public open space did not form part of the reasons for refusal.
- In conclusion it is the opinion of the applicant's Planning Consultants that the Planning Authority in making the decision on the application has allowed the neighbouring low density houses and the notional future Kiltiernan Link Road to dictate the form of the development to be provided on the adjacent site. It is submitted that the decision ignores the near identical assessment of many similar issues which referred to the determination of a recently permitted

residential scheme which was granted permission by the Board under ABP 309026-20.

- It is submitted that the Planning Authority failed to acknowledge the central and accessible location of the subject lands which are well connected to public transport and in close proximity to the Park Carrickmines. The report of the Planning Officer acknowledged that the site is suitable for increased heights, however the proposed scheme which ranges in height from 6-8 storeys was considered too height by the Planning Authority.
- It is submitted that the submitted that the proposed scheme is appropriately scaled for the site and that it would not be overbearing due to the separation distances provided and the high-end design solution proposed.

6.2. Planning Authority Response

- The Board is referred to the report of the Planning Officer.
- It is considered that the grounds of the appeal do not raise any new matters which would in the opinion of the Planning Authority justify a change of attitude to the proposed development.

7.0 Assessment

The main issues in this appeal are those raised in the grounds of appeal and it is considered that no other substantive issues arise. The issue of appropriate assessment screening also needs to be addressed. The issues can be dealt with under the following headings:

- Density, Height and Design
- Residential Amenities/Residential Standards
- Impact on amenities
- Access and traffic
- Other issues
- Appropriate Assessment

7.1. Density, Height and Design

Density

- 7.1.1. The lands in question are zoned 'Objective A' – to protect and/or improve residential amenity. The proposal is to demolish 'Waterville' a detached single storey dwelling and construct 72 no. apartments in a part six-storey, part eight-storey building. The existing dwelling subject of this application was built circa 1940's. The site has an area of 0.4167hectares the proposed density would be equivalent to 173 units per hectare.
- 7.1.2. The Planning Authority in their assessment of the proposal considered that the scheme represented overdevelopment of the site. Refusal reason no. 5 stated that
- 7.1.3. *The proposed development, by reason of its density, scale, massing height and unit mix, is considered to constitute overdevelopment of the site. The proposed development is thereby considered to be contrary to the Ballyogan & Environs Local Area Plan, 2019, the current County Development Plan and to the Urban Development and Building Heights, Guidelines for Planning Authorities (2018; DoHPLG). The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.*
- 7.1.4. In relation to the proposed density, I note Section 8.2.3.2 of the Development Plan recommends the provision of densities at higher than 50 dwellings per hectare at locations readily accessible to public transport corridors – QBCs, Luas, DART.
- 7.1.5. In relation to the provisions of the Ballyogan and Environs Local Area Plan 2019-2025, the site is located in the Carrickmines Quarter (16-Old Glenamuck Road) as defined in Figure 1.5 – Quarters and Neighbourhoods. Section 5.1.2 of the BELAP includes a table identifying estimated / approximated capacity for 400 units on development site 'Golf Lane'. Table 5.4 of the BELAP refers to Target Residential Densities and it identifies a target density of 55 units per hectare for the subject site area.
- 7.1.6. The 'Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities provides the identification of suitable locations for apartment development. The report of the Planning Officer considered that the subject site at Old Glenamuck/Golf Lane would constitute an intermediate urban location. The first

party in response to the matter have argued that the site should be considered a central and/or accessible urban location. In respect of this issue, I note that the under the recently granted Strategic Housing Development scheme (ABP Ref. 309026-20) at Golf Lane that the Planning Inspector determined that the site has central/accessible characteristics and that it is therefore suitable for higher densities. The Inspector came this conclusion based on the site characteristics including that it is located within a reasonable walking distance (less than 800m) to the Ballyogan Luas station. The proximity of the site to 'The Park' at Carrickmines, which is a Retail Park, where there is a range of shops and facilities. The Planning Inspector considered that the retail park is an employment location which falls under the description of central/accessible locations in the Apartment Guidelines. The Board in determining the SHD application at Golf Lane concurred with the assessment and recommendation of the Inspector and were satisfied with the density of the scheme proposed which was equivalent to 188 units per hectare.

7.1.7. I note the assessment carried out by the Inspector in respect of the matter of appropriate density of the development at this location and I consider that the rationale provided in respect of this, namely that the location has central/accessible characteristics given the proximity to 'The Park', Carrickmines and the Luas is therefore acceptable.

7.1.8. Accordingly, on the basis of the precedent established in respect of that recent Board decision I would concur with the case made by the first party in relation to suitability of the site for increased residential density.

Height

7.1.9. Refusal reason no. 5 and no. 6 issued by the Planning Authority in respect of the application referred to the height of the proposed development. The report of the Planning Officer considered that having regard to the overall height of eight stories, with respect to its impact that the proposed development represents an abrupt transition between the existing dwellings and apartments in the immediate area. The Planning Officer concluded in their report that it had not been demonstrated that the proposal would successfully integrate or enhance the character of the public realm.

- 7.1.10. In relation to the height of the proposed apartment building it ranges for six storeys on the eastern side to eight storeys on the western side adjacent to Glenamuck Road South. The proposed height of the building is 27.9m.
- 7.1.11. Section 5.3.4 of the Ballyogan Environs Local Area Plan (BELAP) refers to building height. Policy BELAP RES4 – Locations for Higher Buildings: The locations identified as 'RES4' in Glencairn North, Kilgobbin South, Mimosa-Levmoss, Racecourse South, The Park Carrickmines, and Old Glenamuck Road are considered as suitable locations for higher buildings within the BELAP area (see Figure 11.1). Table 5.5 refers to Building Heights and in respect of Neighbourhood 16 – Old Glenamuck Road it advises that The M50 corridor gives capacity for higher buildings in this Neighbourhood.
- 7.1.12. Policy BELAP RES5 refers to Building Height by Scheme. It advises that any planning application for a scheme which proposes buildings in excess of 4 storeys shall be accompanied by an analysis of building height and positioning of buildings. In respect of this matter, I note that an analysis of building height was not submitted with the application.
- 7.1.13. The provisions of 'Urban Development and Building Heights' Guidelines for Planning Authorities, is of particular relevance in accessing the proposed development.
- 7.1.14. Specific Planning Policy Requirement (SPPR) 1 of the Building Height Guidelines is noted, - Government policy to support increased building height and density in locations with good public transport accessibility, where increased building height will be actively pursued for both redevelopment, regeneration and infill development to secure the objectives of the NPF, RSES and shall not provide for blanket numerical limitations on building heights. In respect of SPPR1 sites which are suitable for increased building height above six storeys are sites in town and city centre areas and in other urban locations with good public transport accessibility.
- 7.1.15. The Guidelines advise in Section 3.2, that the proposed development will be at a scale which satisfies the scale of the district/neighbourhood/street and that the proposed development is appropriate in relation to maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light. In respect of access to daylight and sunlight, these matters are addressed in section 7.2 of this report.

- 7.1.16. The Guidelines advise in Section 3.6, that 4 storeys or more can be accommodated alongside existing larger buildings, trees and parkland, river/sea frontage or along wider streets.
- 7.1.17. In relation to the site location, it is in an urban area which has central/accessible characteristics. Regarding the policy in relation to building height as set out in the Table 5.5 of the BELAP that a key consideration regarding building height in Neighbourhood 16 – Old Glenamuck Road is that the M50 corridor gives capacity for higher buildings in this Neighbourhood. Policy BELAP RES4 which refers to locations for higher buildings identifies a number of locations including Old Glenamuck Road as considered suitable locations for higher buildings within the BELAP area. The indicative locations where Policy BELAP RES4 applies are shown on Figure 11.1 of the plan. As illustrated on Figure 11.1 RES4 applies to the residentially zoned lands on the northern side of Golf Lane.
- 7.1.18. Regarding the site context it is situated in an area which is subject to comprehensive urban development including the Q3 scheme at ‘The Park’ Carrickmines and substantial residential development including the permitted SHD at Golf Lane. The site is located close to high quality public transport with the Luas Station at Ballyogan Wood approximately 680m away.
- 7.1.19. Regarding the site context, the section of the Glenamuck Road South which adjoins the site to the west is a dual carriageway between Junction 15 of the M50 and the Glenamuck Road South roundabout. The width of the road way at the section adjacent to the subject site is circa 21m it features a median strip planted with hedging. Accordingly, I note advice in Section 3.6 of the ‘Urban Development and Building Heights’ Guidelines which states that 4 storeys or more can be accommodated alongside existing larger buildings, trees and parkland, river/sea frontage or along wider streets. Glenamuck Road South with a road width of circa 21m is an appropriate location for the proposed apartment building with a height of part six storeys and part eight storeys given the width of the roadway.
- 7.1.20. The subject site is a corner site situated immediately to the east of the roundabout at the Glenamuck Road South. In terms of the character of the existing residential development in the vicinity of the site, the residential scheme Carrickmines Green is situated to the south of the site. It comprises a mix of apartments and dwellings. The

apartment buildings within the scheme are five storeys high and two of the apartment buildings directly address the roundabout. Knockree located to the east is a small scheme of three-storey semi-detached houses and Blackberry Hill located to the east is a scheme of three-storey dwellings.

- 7.1.21. Furthermore, in respect of the site context I would note the height of the apartments permitted by the Board within the SHD at Golf Lane on the neighbouring site to the north-east range from 4 no. storeys to 22 no. storeys. The Board in their direction stated that they were satisfied that the proposed heights as submitted, having regard to the location of the proposed development adjacent to a high frequency public transport corridor, the M50 and the adjoining permitted and existing residential and mixed use developments would be in accordance with the Development Management Principles in section 3.1 and the Development Management criteria set out in section 3.2 of the Urban Development and building height Guidelines 2018. The Board considered that the 22 storeys proposed was appropriate for a landmark building adjacent to the M50 motorway at a key junction to an emerging retail / mixed use and residential area in the Carrickmines/Glenamuck Road area.
- 7.1.22. The permitted scheme under ABP 309026-20 contains the 22 no. storey block located adjacent to the northern site boundary at the M50. The building heights are staggered within the development with a 13 no. storey block located within the centre of the site and then the building heights reduced to 8 no. storeys towards the southern side of the site with 6 no. storeys in Block A1 which is situated to the north-east of the subject site. Having regard to the precedent set with the height of permitted apartment buildings on the northern side of Golf Lane, I consider this establishes a context in which the proposed apartment building of part six storeys and part eight storeys can be considered acceptable in principle.
- 7.1.23. In response the matter of building height it is set out in the appeal that the height of the development is appropriate as it provides a demarcation at a key junction of routes and achieve a sufficient density of development for a central and accessible site. The height in the scheme ranges between part 6 storeys to part 8 storeys. It is highlighted that the tallest elements follow the curvature of the Glenamuck Road to the west which is the least sensitive boundary and that the proposal provides an appropriate demarcation of Golf Lane on approach.

- 7.1.24. The Architectural Design statement prepared by Cantrell & Crowley Architects provides a rationale for the proposed height of the scheme. They stated that by locating the proposal at this distance from the neighbouring site that it provides the opportunity to create a higher more substantial building to occupy this prominent site. They consider that the building acts to terminate the view from Kiltarnan direction and represents a high quality form of development that adequately address its context and provides abundant visual interest at this important corner on the Old Glenamuck Road.
- 7.1.25. I would consider it is an appropriate location to site the proposed apartment building of this height as the corner site does provide an opportunity to design a building which is a standalone contemporary addition to the streetscape. I would consider the proposed height of the building is acceptable in the context of the existing surrounding development which comprises five storey apartments at Carrickmines Green to the south and also the permitted SHD scheme at Golf Lane to the north-east with apartment buildings ranging from four storeys to twenty two storeys.
- 7.1.26. In conclusion, having regard to the site context, the relevant provisions of the Ballyogan Environs Local Area Plan 2019-2025, the provisions of the Ministerial Guidelines in relation to Building Heights and the recent decision of the Board in respect of the permitted SHD scheme at Golf Lane, I would accept that the principle of an apartment building of part six storeys and part eight storeys can be considered subject to all other relevant planning considerations being satisfactorily addressed.

Design

- 7.1.27. As detailed in the submission from the first party submit it is highlighted that the design of the building follows the curvature of the Glenamuck Road which ensures that it can be assimilated into its context and provide an attractive urban design solution. The height of the building is stepped down on the eastern side to 6 no. storeys and thus reduces the scale and massing when viewed from the low density dwellings to the east.
- 7.1.28. In relation to the proposed design of the apartment building, it is contemporary it includes a flat roof and features a mix of balcony design including cantilevered balconies to the side elevations and projecting elements of the building to the front and rear elevations which contain balconies at first to sixth floor levels. The building

has a maximum length of 108m at ground to seventh floor level. The eight floor is inset 14m at the northern side of the building also inset 10m on the southern side. The proposed stepping down of the building height at the northern and southern side serves to reduce the massing of the proposal.

7.1.29. Regarding the setback of the building from the site boundaries I note that a minimum setback of 28.3m is proposed between the eastern elevation and the eastern boundary with the property 'Shanagran'. At the closest point the building is setback 4.6m from the western site boundary and the building setback 9m from the south-western boundary of the site. As indicated on the Landscape Masterplan, Drawing no: 20-550-SDA-DR-PD-GF-001, new planting is proposed around the site perimeter comprising birch trees and evergreen shrubs. The proposed landscaping and planting will serve to integrate the proposed apartment building into the site.

7.1.30. The proposed apartment building will be in a prominent location. Accordingly, it is important that it is of a high architectural design quality. I consider that it is of a high quality design. In particular the asymmetrical shape of the building along the western elevation which follows the curvature of the site boundary and provides a well designed attractive modern building. The proposed stepping down of the building from eight to six storeys serves to reduce the massing of the proposal. I consider that there is reasonable variety to the elevational treatment of the building and the materials and colour pallet of the external finish provide a good mix of high quality finishes. The proposed finishes include beige brick with light grey/white mortar joints, aluminium panels to windows, doors, balconies and railings, cement cladding to select walls and limestone cladding panels to balcony surrounds. Overall, in terms of the visual impact of the proposed scheme on the surrounding area I consider that the development has been designed well to integrate with the surrounding development.

7.2. Residential Amenities/Residential Standards

Sunlight

7.2.1. In relation to sunlight to windows, the BRE guidelines refer to a test of Annual Probable Sunlight Hours (APSH) to windows. According to the BRE Guidelines a dwelling or non-domestic building which has a particular requirement for sunlight will

appear reasonably sunlit provided the centre of at least one window in the main living room can receive 25% annual probable sunlight hours, including at least 5% of annual probable sunlight hours in winter.

- 7.2.2. The Building Height Guidelines do not explicitly refer to sunlight in proposed accommodation and within Section 3.2 of same it is stated 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'. Therefore, while daylight and overshadowing are explicitly referenced, there is no specific reference to sunlight, and reference is only to daylight, overshadowing or more generally 'light'. Section 8.2.3.1 of the Dún Laoghaire-Rathdown County Development Plan 2026-2022 refers to Quality Residential Design. It states that it is the objective of the Council to achieve high standards of design and layout to create and foster high quality, secure and attractive areas for living. Criteria which will be taken into consideration includes levels of privacy and amenity, the relationship of buildings to one another including considerations of overlooking, sunlight/daylight standards and the appropriate use of screening devices. Accordingly, an analysis of sunlight is required in this instance.
- 7.2.3. Study F within the report prepared by BPG3 provides an assessment of sunlight amenity to the proposed recreational areas within the scheme. The study contains a sunlight access assessment at all of the windows serving habitable accommodation within the development. 532 no. windows are considered in the assessment.
- 7.2.4. The results of the study are provided both in tabular form on Table 8 and Table 9 and illustrated in plan form on Figure's 15-30 inclusive. Plan form diagrams with indicative coloured windows are utilised to demonstrate BRE compliance with same (i.e. an APSH of 25% or greater and a Winter PSH of 5% or greater). In relation to the proportion of units which conform with strict interpretation of BRE guidelines for annual sunlight access a conformity rate of 73% was found. In relation to the proportion of units which conform with strict interpretation of BRE guidelines for annual sunlight access available during winter months a conformity rate of 69% was found.

- 7.2.5. Accordingly, I am satisfied that the report adequately demonstrates that acceptable levels of sunlight access in accordance with BRE standards, as relates to sunlight levels to living rooms which face 90 degrees of due south are provided.

Daylight

- 7.2.6. In relation to daylight, the BRE 209 guidance, with reference to BS8206 – Part 2, sets out minimum values for ADF that designers/developers should strive to achieve, with various rooms of a proposed residential unit, and these are 2% for kitchens, 1.5% for living rooms and 1% for bedrooms. Section 2.1.14 of the BRE Guidance notes that non-daylight internal kitchens should be avoided wherever possible, especially if the kitchen is used as a dining area too. If the layout means that a small internal galley-type kitchen is inevitable, it should be directly linked to a well-daylit living room. This BRE 209 guidance does not give any advice on the targets to be achieved within a combined kitchen/living/dining layout. However, Section 5.6 of the BS8206 – Part 2: 2008 Code of Practice for Daylighting states that, where one room serves more than one purpose, the minimum average daylight factor should be that for the room type with the highest value. For example, in a space which combines a living room and a kitchen the minimum average daylight factor should be 2%. As such the default ADF value to be applied to a Kitchen/Living/Dining Room (KDL) should be 2%.
- 7.2.7. Section 6.5 of the Apartment Guidelines states that the provision of acceptable levels of natural light in new apartment developments is an important planning consideration as it contributes to the liveability and amenity enjoyed by apartment residents. In assessing development proposals, planning authorities must however weigh up the overall quality of the design and layout of the scheme and the measures proposed to maximise daylight provision with the location of the site and the need to ensure an appropriate scale of urban residential development.
- 7.2.8. In the proposed development, combined open plan kitchen, living and dining spaces are included within the proposed apartment units. The submitted assessment of skylight amenity available within the proposed accommodation (Study D) sets out to achieve a target of 2% for the living/kitchen/dining areas and 1% for bedrooms.
- 7.2.9. Study D within the report prepared by BPG3 provides an assessment of skylight amenity available within proposed accommodation. A total of 174 no. rooms have

been analysed. The results are presented on Table 7 of the report and on Figure's 7-14 inclusive. As indicated on Table 7 the Average Daylight Factor is in excess of the advisory minimum for 160 no. rooms of the 174 no. rooms. In respect of the 14 no. rooms which fall short of the advisory minimum two of the rooms are bedrooms. Room 18 and room 148 refer to bedrooms within a two bedroom unit. I note that in the case of both these rooms the predicted ADF is 0.9 which is marginally under the advisory minimum of 1%. Given the marginal nature of the non-compliance with the advisory minimum standard I would consider that it is acceptable in this context.

- 7.2.10. The 12 no. rooms within the scheme which fall short of the advisory minimum relate to studio apartments. Table 7 in the report sets out the predicted ADF. For rooms 14, 16, 62, 64, 88 and 114 the predicted ADF is 1.4. For rooms 36, 38, 90, 114 and 142 the predicted ADF is 1.3. For room 140 the predicted ADF is 1.2. As detailed in Table 7 it is the professional opinion of the author of the study that adequate levels of internal skylight amenity would be provided. It is acknowledged in the report that while an increase reliance on artificial light can be expected for these spaces the predicted daylight factor distribution indicates that adequate levels of natural light would be provided to local areas proximate to external windows. Therefore, when occupants orientate themselves towards these areas a significant portion of the room will appear adequately daylit.
- 7.2.11. In respect of these rooms within studio apartments, I note that they are single aspect and west facing. The balconies of these studio apartments are designed with glazed balustrades I note that this will serve to increase light penetration into the residential units. Furthermore, I note that floor to ceiling height glazing is proposed which is designed to maximise access to daylight for these units.
- 7.2.12. Having regard to the fact that the predicted ADF's for these rooms are close to the minimum advised for main living rooms of 1.5% ADF with the predicted ADF's being predominately 1.4% and 1.3%, and the fact that as illustrated on Figure's 7-14 that adequate levels of daylight would be provided to the main living areas which are located to the front of the room, I would consider the shortfalls in predicted ADF's would be acceptable in this context as adequate compensatory features such as balconies, aspect, outlook and orientation have been provided.

7.2.13. Accordingly, having regard to the above assessment, in my view the achievement of 92% of the habitable rooms in the development being found to satisfy the advisory minimum for ADF is acceptable.

Overshadowing

7.2.14. The BRE Guidelines recommend that for a garden or amenity area to appear adequately sunlit throughout the year, at least 50% of the area should receive at least two hours of sunlight on March 21st. Study F within the report prepared by BPG3 provides an assessment of sunlight amenity to the proposed recreational areas within the scheme.

7.2.15. As detailed on Table 10 – Sunlight access predicted for outdoor recreation spaces proposed within the development, the two outdoor areas considered within the study (Area 1) the communal outdoor area at podium level and (Area 2) the communal area at terrace level receive in excess of 2 hours sunlight over more than 50% of the area on 21st March, complying with BRE target levels. Having reviewed figure 31 of the submitted assessment I concur with this conclusion and am satisfied that adequate sunlight is achieved to external communal space in the proposed development.

Unit mix

7.2.16. The provisions of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines (2020) sets out there is a need for greater flexibility in terms of apartment mix within proposed schemes. Specific Planning Policy Requirement 1 (SPPR1) states that housing developments may include up to 50% one-bedroom or studio type units (with no more than 20-25% of the total proposed development as studios) and there shall be no minimum requirement for apartments with three or more bedrooms. The unit mix within the scheme is 14 no. studios, 16 no. 1 beds, 40 no. 2 beds and 2 no. 3 beds. The percent of proposed studios within the scheme is 19.5% and the percentage of one bed units is 22.2%. I consider that the unit mix is acceptable in this instance, and it is compliant with SPPR1 of the Apartment Guidelines.

Dual aspect

7.2.17. SPPR4 as detailed in the Apartments Guidelines (2020) refers to the requirement for dual aspect units within scheme. It sets out that in relation to the minimum number of

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

- 7.2.18. Refusal reason no. 7 refers to the concerns of the Planning Authority in respect of the proportion of single aspect apartments in the proposed development and that it would contravene SPPR4 of the Apartments Guidelines for Planning Authorities and therefore would fail to provide an adequate level of residential amenity for future occupants of the scheme.
- 7.2.19. The response from the first party on the matter submits that in the SHD application granted by the Board at Golf Lane, the Planning Inspector in their report considered that the application site could accurately be described as a central/accessible location as defined under the guidelines. Therefore, a minimum 33% for dual aspect units was applied in the assessment of that scheme. The Board agreed with the recommendation of the Inspector to grant permission for the scheme containing 482 no. units under ABP 309026-20.
- 7.2.20. The first party therefore argue that the appropriate standard of dual aspect units within the scheme is 33% dual aspect units. Having assessed the submit floor plans I am satisfied that 38% of the units within the scheme are dual aspect units.
- 7.2.21. As discussed in section 7.1.7 of this report I consider that the location has central/accessible characteristics accordingly the application of a minimum of 33% dual aspects units to the scheme is therefore appropriate. Accordingly, I consider that the provision of dual aspect units with the scheme acceptable in this instance, and it is compliant with SPPR4 of the Apartment Guidelines.

Private amenity space

- 7.2.22. As detailed in the Housing Quality Assessment Table contained in the Architectural Drawings submitted with the application, the proposed private open space areas to serve the residential units range from a minimum of 8sq m to 68sq m. The minimum requirements for private range between 4sq m to 9sq m as per Appendix 1 of the Apartment Guidelines. Accordingly, the apartment units are provided with either a

terrace or balcony of sufficient size which is in accordance with the standards set out in the Apartment Guidelines.

Public open space

- 7.2.23. Section 8.2.8.2 of the Development Plan refers to Public/Communal Open Space. It requires that residential schemes provide an absolute default minimum of 10% of the overall site area for residential developments to be reserved for use as public open and/ or communal space. A communal garden is proposed a ground floor level and a landscaped roof terrace is proposed at level 06. The public open space area proposed to the northern section of the site incorporates the existing watercourse and trees on site. The open space area is accessible via a bridge which links the northern building entrance to Glenamuck Road and the gardens at ground floor level. As detailed in the Housing Quality Assessment Table contained in the Architectural Drawings submitted with the application the total amount of public open space area and communal open space area proposed is 1,446sq m and this represents circa 34% of the total site area. The area of communal open space proposed is 697sq m.
- 7.2.24. Having regard to the standards set out in Appendix 1 of the Design Standards for New Apartments (updated December 2020), the overall communal space provision required for the apartment units is 434sq. m. As such I am satisfied that the standards for communal space have been met in this instance.
- 7.2.25. Accordingly, having regard to the quantum of public/communal open space provided within the scheme and the quality of the design of the communal garden and also the public open space area which incorporates existing site features, I consider the proposed public/communal open space is acceptable.

7.3. Impact on amenities

- 7.3.1. Refusal reason no. 6 refers to the proximity of the proposed development to the residential property, 'Shanagran', it is stated in the refusal that it is considered that the proposed development would be visually overbearing when viewed from this property and would result in overshadowing and therefore seriously injure the residential amenities and depreciate the value of this property. The proposed development would therefore materially contravene the zoning objective for the area, which is 'to protect and or improve residential amenity' and therefore would be

contrary to the proper planning and sustainable development of the area. I shall address the matter of potential impacts on the amenities of neighbouring properties in this section of the report.

Daylight, sunlight and overshadowing

- 7.3.2. There is no specific policy or objective in the Dún Laoghaire-Rathdown County Development Plan 2016-2022 requiring compliance with BRE or BS standards. Section 8.2.31 of the Development Plan refers to Quality Residential Design. It states that it is the objective of the Council to achieve high standards of design and layout to create and foster high quality, secure and attractive areas for living. Criteria which will be taken into consideration includes levels of privacy and amenity, the relationship of buildings to one another including considerations of overlooking, sunlight/daylight standards and the appropriate use of screening devices.
- 7.3.3. The Building Height Guidelines also seeks compliance with the requirements of the BRE standards and associated British Standard (note that BS 8206-2:2008 is withdrawn and superseded by BS EN 17037:2018), and that where compliance with requirements is not met that this would be clearly articulated and justified.
- 7.3.4. The Building Research Establishments (BRE) 'Site Layout Planning for Daylight and Sunlight – A guide to good practice' describe recommended values (eg. ADF, VSC, APSH, etc) to measure daylight, sunlight and overshadowing impact, however it should be noted that the standards described in the BRE guidelines are discretionary and not mandatory policy/criteria (para.1.6). The BRE guidelines also state in paragraph 1.6 that:
- 7.3.5. *“Although it gives numerical guidelines, these should be interpreted flexibly since natural lighting is only one of many factors in site layout design.”*
- 7.3.6. The BRE note that other factors that influence layout include considerations of privacy, security, access, enclosure, microclimate etc. in Section 5 of the standards. In addition, industry professionals would need to consider various factors in determining an acceptable layout, including orientation, efficient use of land and arrangement of open space, and these factors will vary from urban locations to more suburban ones. The BRE guidelines state that in relation to daylight to existing buildings:

7.3.7. *“Loss of light to existing windows need not be analysed if the distance of each part of the new development from the existing window is three or more times its height above the centre of the existing window. In these cases the loss of light will be small...” (para. 2.2.4)*

7.3.8. An Assessment of Daylight Levels Associated with the was submitted with the application dated 29th March 2021. In relation to daylight, the BRE Guidelines recommend that neighbouring properties should retain a VSC (this assesses the level of skylight received) of at least 27%, or where it is less, to not be reduced by more than 0.8 times the former value (i.e. 20% of the baseline figure). This is to ensure that there is no perceptible reduction in daylight levels, requiring electric lighting to be needed more of the time.

Daylight

7.3.9. The submitted assessment considers the impacts on daylight and sunlight on the following surrounding properties, ‘Shanagran’, ‘Greenan’ and ‘Beech House’.

7.3.10. The report graphically illustrates where windows have a VSC of greater than 27%. In relation to the windows identified in the neighbouring properties ‘Shanagran’ to the east and ‘Greenan’ to the east, it is illustrated in Table 1 of the report that all of the windows considered had a VSC in excess of 27% with the development in place. In relation to the apartment building Beech House located to the south of the subject site, it is illustrated that all of the windows considered, save for 4 no. on the façade of the building have a VSC of greater than 27% with the proposed development in place. The cases where the VSC levels were found to fall short of the advisory minimum levels refer to windows 5,16, 17 and 18 within Beech House. Secondary testing was carried out in relation to the average daylight factor approach outlined in BS 8206-2: 2008. Regarding the secondary testing, the industry standards regarding modelling assumptions were employed in line with BS 8206-2: 2008, and ADF’s for neighbouring properties were extrapolated as part of the secondary testing and analysis of potential impacts undertaken by the applicant. In relation to average daylight factor, the average daylight factor is used as the measure of general illumination from skylight. It is considered good practice that rooms in dwellings and in most other buildings have a predominantly daylight appearance. The recommended average daylight factor for living room/kitchens is 1.5/2% and for bedrooms is 1%.

7.3.11. In relation to window 5 the principle use of the room served by the window is a bedroom. The existing ADF is 2.4% and the ADF with the development in place is 2.1%. This impact falls within tolerable bounds as with the proposed development in place the advisory minimum associated with this rooms main use is still satisfied. In relation to window 16 the principal use of the room served by the window is living room the existing ADF is 1.1% and the ADF with the proposed development in place is 0.9%. This impact falls within tolerable bounds. Window 17 serves a room where the principal use of the room is a living room. The existing ADF is 1.0% and the ADF with the proposed development in place is 0.9%. This impact falls within tolerable bounds. Window 18 serves a room where the principal use is a living room. The existing ADF is 1.0% and the ADF with the proposed development in place is 1%. This impact falls within tolerable bounds.

Sunlight

7.3.12. The impact on sunlight to neighbouring windows is generally assessed by way of assessing the effect of the development on Annual Probable Sunlight Hours (APSH). The BRE Guidelines suggest that windows (to living rooms and conservatories) with an orientation within 90 degrees of due south should be assessed. According to the BRE Guidelines a dwelling or non-domestic building which has a particular requirement for sunlight will appear reasonably sunlit provided the centre of at least one window in the main living room can receive 25% annual probable sunlight hours, including at least 5% of annual probable sunlight hours in winter.

7.3.13. The report graphically illustrates the impact of the surrounding development on sunlight to surrounding windows. Having regard to the analysis illustrated on Table 3 of the report it is possible to conclude that with the development in place the advisory minimums recommended by the BRE would be satisfied in all cases.

Shadow Analysis

7.3.14. The BRE guidelines recommend using the 21st March for plotting shadow diagrams. In relation to overshadowing, the BRE guidelines state that an acceptable condition is where external amenity areas retain a minimum of 2 hours of sunlight over 50% of the area on the 21st March. The study to assess sunlight levels available to neighbouring recreational areas identified four neighbouring outdoor recreation spaces where altered sunlight levels could potentially register. The areas are

indicated on Figure 4 and are located to the east and south-east of the subject site. The report graphically illustrates existing amenity spaces associated with these neighbouring residential properties. The report states that 100% of the existing properties' back gardens receive over 2 hours of direct sunlight after the proposed development has been constructed. Appendix F of the report contains Shadow Casting Imagery. The findings of the analysis leads to the conclusion that the advisory minimums recommended by the BRE would be satisfied in all cases.

Overlooking/loss of privacy

- 7.3.15. In relation to the issue of overlooking the closest residential properties to the proposed apartment building are 'Shanagran' the neighbouring dwelling to the north-east and 'Beech House' the apartment building located to the south of the site.
- 7.3.16. The separation distance between the proposed apartment building at the closest point and the property 'Shanagran' is 28.2m to the site boundary and 32.5m to the dwelling. Accordingly, the separation distance provided ensues that the proposed development would not result in any undue overlooking.
- 7.3.17. The apartment building 'Beech House' is situated to the south of the site on the opposite side of the junction of Golf Road and the Glenamuck Road South roundabout. Beech House contains balconies to the front elevation of the building which address Golf Road and the roundabout. The southern side elevation of the proposed apartment building would be setback a minimum distance of 34m from the front elevation of 'Beech House'. Having regard to the separation distance provided I am satisfied that that no material overlooking or loss of privacy will occur.

Overbearing

- 7.3.18. Regarding the matter of potential overbearing impact, the report of the Planning Officer stated that the proposed building given its overall height, scale and massing in this specific context would appear visually overbearing and incongruous when viewed from the neighbouring house of 'Shanagran' to the east. In response to the matter the first party set out in the appeal that the separation distance proposed between the subject apartment building and 'Shanagran' is similar to the separation distance provided between 'Shanagran' and the permitted SHD at Golf Lane to the north-east. In the case of the permitted SHD the Planning Inspector noted in their report that a minimum separation distance of 27m was provided to the closest

residential property 'Creagan'. The separation distance of 27m was provided between 'Creagan' and block C which is a part five storey and part seven storey building. It is submitted in the appeal that a similar relationship exists between the current site and 'Shanagran'.

7.3.19. It is highlighted in the appeal that the proposed scheme has been designed so that the greatest heights are located closer to the Glenamuck Road where these heights can be more easily absorbed. The minimum separation distance provided between the apartment building and 'Shanagran' is 33.7m. The minimum separation distance between the proposed apartment building and the boundary of 'Shanagran' is 28.4m. I consider that the design of the scheme which includes the stepping down of the building height at the eastern side to six-storeys and the separation distance provided with 'Shanagran' satisfactorily addresses concerns relating to overbearing impact.

7.3.20. In conclusion, having reviewed the proposed layout of the scheme relative to the existing surrounding properties, I consider having regard to the proposed siting of the apartment building and relative separation distances to the existing property that the proposed scheme would not result in any material overlooking, overbearing or overshadowing of neighbouring residential properties.

7.4. Access and traffic

7.4.1. The first reason for refusal issued by the Planning Authority refers to issues of access and traffic. The Planning Authority determined that the proposed development would endanger public safety by reason of traffic hazard due to the additional traffic turning movements generated onto Old Glenamuck Road, close to the Glenmuck Roundabout. The reason for refusal also referred to the Roads Objective in Table 2.2.5 and Table 2.2.6 of the Dún Laoghaire-Rathdown County Development Plan 2016-2022 for the Kiltarnan Link Road.

7.4.2. The proposal entails the provision of a total of 72 no. dwelling units. It is proposed to upgrade the site entrance for Golf Lane and pedestrian access is proposed from Glenamuck Road.

7.4.3. In response to the refusal reason the first party stated that the Planning Authority in assessment of the proposed development did not take into consideration the

assessment which the Board took in determining the permitted Strategic Housing Development on Golf Lane under ABP 309026-20. It is highlighted in the appeal that the Board was satisfied that Golf Lane SHD which is significantly larger in scale than the proposed scheme would not adversely impact on the implementation and the operation of the Kiltiernan Link Road in the future.

- 7.4.4. In respect of that permitted SHD, I note that the vehicular access is located circa 175m to the north-east of the proposed vehicular access to serve the subject development.
- 7.4.5. Regarding the matter of traffic generated by the proposed scheme, a Traffic and Transportation Assessment was prepared by Trafficwise and was submitted with the application. The TRICS database was used to establish representative traffic generation rates. In relation to traffic generation Table 5.1 in the Traffic and Transportation Assessment sets out the rates of arrivals and departures per hour during peak hours between 0.700 and 19.00. As detailed on Table 5.1 of the assessment it is anticipated that traffic at the peak morning hour of between 0.800-09.00 is 3 no. arrivals and 12 no. departures (15 no. two-way movements). At the peak evening hour of between 17.00-18.00 it is detailed in table 5.1 that 11 no. arrivals and 4 no. departures are anticipated. This also amounts to (15 no. two-way movements). It is concluded in the TTA that given the peak traffic generation is in the order of 15 no. vehicular movements per hour that the impact of the proposed development on the capacity and operation of the receiving road network is not significant. In relation to the Kiltiernan Link Road it stated in section 10.1.20 of the TTA that it is reasonable to conclude that the modest traffic arising at the proposed development is unlikely to give rise to significant impact upon the operation and capacity of the future link road.
- 7.4.6. The anticipated traffic generated by the proposed scheme is compared in the appeal to the anticipated traffic generated by the permitted SHD at Golf Lane under ABP Ref. 309026-20. As detailed in the report of the Planning Inspector the SHD containing 482 no. residential units was anticipated to generate 25 no. arrivals and 107 no. (132 no. two-way movements) departures in the morning. In the evening peak 77 no. arrivals and 29 no. departures (108 no. two-way movements) were forecast. The Traffic and Transport Assessment Report submitted with that application was prepared by DBFL Consulting Engineers, it concluded there is

adequate capacity in the surrounding road network to accommodate the proposed development. The first party therefore contend that the refusal of permission on the basis of the additional traffic turning movements generated is unwarranted.

- 7.4.7. They have highlighted in the appeal that the Board's recent decision in respect of the Golf Lane SHD is a much larger scale development with a greater number of movements and that it was considered appropriate development at this location in the context of the future Kiltiernan Link Road. Therefore, the first party submit that there is no tangible evidence to suggest that the proposed development would endanger public safety by reason of traffic hazard due to the additional traffic turning movements generated onto the future Kiltiernan Link Road.
- 7.4.8. Regarding the level of additional traffic that the scheme would generate, in terms of overall scale and intensity the proposed development it is relatively modest in scale and specifically when compared with the large SHD permitted on the adjacent site at Golf Lane. Having reviewed the Traffic and Transport Assessment Report in respect of the SHD at Golf Lane, I note in relation to road network impact the analysis for Glenamuck Road South/Golf Lane demonstrated that the operational performance of the site access junction on Golf Lane following the implementation of the proposed 482 unit residential scheme has demonstrated that the proposed site access junction will operate well within capacity in the worst case 2038 Future Design Year. In relation to the operational performance of the Glenamuck Road South/Golf Lane roundabout junction it will operate within acceptable operational parameters in all Do-Nothing and Do-Something scenarios. It was concluded in the report that the introduction of the subject development traffic results in a negligible impact on the operational performance of this key off-site junction compared to the Do-Nothing scenario.
- 7.4.9. Accordingly, having regard to the foregoing assessment of the potential traffic impacts of the proposed development, I would consider the surrounding road network has sufficient capacity to deal with level of traffic likely to be generated by the proposed development.
- 7.4.10. In conclusion, I am satisfied that the first party has demonstrated that the existing road network has sufficient capacity to accommodate the traffic which the proposed development would generate.

- 7.4.11. Refusal reason no. 3 stated that the proposed development is considered to represent piecemeal development, in that the proposed access arrangement would set an undesirable precedent for similar vehicular access point off the Old Glenamuck Road which is included as a Road Objective in Table 2.2.5 & Table 2.2.6 of the Dún Laoghaire-Rathdown County Development Plan 2016-2022. This refers to the Kiltiernan Link Road. The Kiltiernan Link Road is a new link road is proposed between the M50, the SDZ area, Carrickmines and Kiltiernan. It is part of the Cherrywood Strategic Development Zone. The Kiltiernan Link Road is aligned with the southern edge of the site which is currently Golf Lane. It is noted that the road is at proposal stage with final design details and approval yet to be formalised.
- 7.4.12. Refusal reason no. 4 also refers to the future Kiltiernan Link Road and states that it is considered that the proposed development could potentially have an adverse impact on the function of the Kiltiernan Link Road and that individual vehicular accesses to development sites along the future Kiltiernan Link Road are not favoured and could potentially undermine the function of the Kiltiernan Link Road. Regarding this issue I note that the development boundary of the scheme has been set back from the edge of Golf Lane to accommodate the achievement of the full 24m Kiltiernan Link Road cross-section. As detailed in the TTA, this proposed setback is similar to the setback provided at the entrance to the Blackberry Hill residential development situated 75m from the site on the opposite of Golf Lane.
- 7.4.13. In response to concerns of the Planning Authority in respect of the provision of individual entrances onto Golf Lane, the first party note that the access point already exists and serving the dwelling on site. It is also highlighted that an access point to a much larger residential scheme was very recently granted permission by the Board from the same road and was deemed appropriate. The appeal also reiterates that the design team considered the future development of the Kiltiernan Link Road and provided a reasonable setback for the implementation of this road infrastructure. Having regard to the fact that the Board has recently granted permission for a residential scheme with 428 no. units under ABP 309026-20 with vehicular access onto Golf Lane, I am satisfied the Board has determined that direct vehicular access onto this existing section of road is appropriate to provide for the residential development of the zoned and serviced lands at this location to the north of Golf Lane. Furthermore, I am satisfied that the design of the scheme which incorporates a

setback from the edge of Golf Lane is compatible with future aspirations for the road. Accordingly, should the Board decide to grant permission, I would recommend the attachment of a condition specifying that prior to commencement of development that the land required by the planning authority for the future Kilternan Link Road to the south/east boundary of the site shall be reserved for implementation of the road. I note that a condition in respect of this matter was attached to the permission granted for the SHD at Golf Lane under ABP 309026-20.

7.4.14. Car parking standards are set out under Table 8.2.3 of the Dún Laoghaire Rathdown Development Plan 2016 – 2022 sets out the car parking standards for residential schemes. Generally, 1 no. car parking space is required for all one bed units, 1.5 spaces per two bed unit. The proposed scheme comprises a total of no. 72 apartments. It contains 14 no. studio apartments, 16 no. one bed apartments, 18 no. two bed units and 2 no. three bed units. The car parking is primarily proposed within the basement with 48 no. spaces proposed. A further 8 no. spaces are proposed at surface level comprising 2 no. accessible spaces, 2 no. car share spaces and 4 no. visitor spaces. In total 56 no. car parking spaces are proposed.

7.4.15. Based on the development plan standards 30 no. spaces would be required for the studio apartments and one bed units, 27 no. spaces would be required for the two bedroom units and 4 no. spaces would be required for the three bed units. Accordingly, a total of 61 no. car parking spaces would be required in accordance with Table 8.2.3 of the Development Plan. A total of 56 no. surface car parking spaces are proposed. There would be a shortfall of 5 no. spaces.

7.4.16. The first party in response to the matter of car parking state that the proposed scheme provides an overall parking ratio of 0.77 car parking spaces per unit. They submit that this is a sufficient quantum of car parking for this central and accessible location. They noted that the report of the Planning Officer stated that, 'Transportation Planning consider, for an owner occupier development in this location, a minimum car parking ratio of 1 space per apartment acceptable with some additional provision of visitor parking, and therefore that the proposed development is deficient in the provision of car parking spaces.' It is noted in the appeal that the SHD at Golf Lane granted under ABP Ref. 309026-20, which contains 428 no. apartments was granted with a parking ratio of 0.6 no. car parking

spaces per unit. Therefore, the first party submit that the proposed scheme provides a higher car parking ratio than the permitted development on adjacent lands.

- 7.4.17. 'Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities' December, 2020, advises in section 4.18, that the quantum of car parking or the requirement for any such provision for apartment developments will vary, having regard to the types of location in cities and towns that may be suitable for apartment development, broadly based on proximity and accessibility criteria.
- 7.4.18. Regarding public transport provision in the area, I note that the site is located circa 680m from the Luas Station at Ballyogan Wood. Accordingly, the site is within a reasonable walking distance approximately 10 minutes to this high frequency Green Luas Line. Carrickmines Luas Station is situated circa 1km from the site and this station is served by park and ride with a total of 352 no. spaces. The no. 63 bus route also serves the area it links Dún Laoghaire and Kilternan.
- 7.4.19. As detailed in section 4.19 of the New Apartments Guidelines, in central and/or accessible urban locations in larger scale and higher density developments, comprising wholly of apartments in more central locations that are well served by public transport, the default policy is for car parking provision to be minimised, substantially reduced or wholly eliminated in certain circumstances. As concluded in section 7.1 of this report the site is located in an area which has central/accessible characteristics. Accordingly, I would concur with the case made by the first party in relation to suitability of the site for a reduction in car parking standards in accordance with the provisions of Section 4.19 of the Apartment Guidelines.
- 7.4.20. In relation to pedestrian access, it is proposed that the scheme will be served by a vehicular/pedestrian/cycle access on Golf Lane and a pedestrian/cycle access to the eastern side of Glenamuck Road. This access be situated immediately to the south of the access to 'The Park' and close to the permitted pedestrian crossing which is located immediately to the north of 'The Park' main access. The location of the pedestrian crossing provides access for future residents to 'The Park' and Ballyogan Road without them having to cross the bellmouth left-in-left out access to 'The Park'.
- 7.4.21. While currently these pedestrian crossing arrangements are not in place, the proposed improvements as part of the Q3 development at 'The Park' will be provided

shortly as the permitted scheme is currently under development and this will ensure safe pedestrian links to the Luas Station at Ballyogan Wood.

- 7.4.22. In relation to cycle parking 152 no. cycle parking spaces are proposed. These comprise 110 no. resident spaces and 36 no. visitor spaces. Standards for Cycle Parking and associated Cycle Facilities for New Developments was published by Dun Laoghaire Rathdown County Council in January 2018. Table 4.1 – Cycle Parking for residential development sets out that for apartments that 1 short stay visitor parking space is required for 5 units and that 1 long stay parking space is required per unit. Accordingly, the scheme would require 72 no. cycle spaces to serve the units and 15 no. cycle spaces for visitors. Therefore, in accordance with the requirements set out in Table 4.1 a minimum of 87 no. cycle spaces would be required. Accordingly, the proposed cycle parking within the scheme is in excess of these requirements and is acceptable.

7.5. Other issues

Section 49 Supplementary Development Contribution Scheme

- 7.5.1. The site is located within the area to which the Dún Laoghaire-Rathdown Supplementary Development Contribution Scheme for Extension of the Luas Line B1-Sandyford to Cherrywood applies. The proposed development is therefore liable for a contribution in respect of the scheme should the Board decide to grant permission.

Flood Risk/Drainage

- 7.5.2. The report of the Drainage Planning Section dated 1/4/2021 requested further information. It was stated in the report that it is proposed to locate the attenuation basins in close proximity to the watercourse and Flood Zone A. The report stated that the proposed scheme appears to be reliant on infiltration for discharge from the site, however, evidence that this design approach can be achieved was not provided. The report of the Drainage Planning Section also had concerns in respect of the proposed run-off rates.
- 7.5.3. In relation to the decision to refuse permission issued by the Planning Authority I note that the issues of flooding and drainage and were not included in the refusal of permission.

- 7.5.4. With reference to the Flood Zone Map no. 9 of the Dún Laoghaire-Rathdown County Development Plan 2016-2022 and OPW Flood mapping I note that there is no history of flooding at this location.
- 7.5.5. A Site Specific Flood Risk Assessment Report was submitted with the application. The Golf Stream is adjacent to the northern site boundary, it discharges to the Carrickmines Stream which is a tributary of the Shanganagh River. It is stated in the SFRA that it was part of the site is in Flood Zone A. This is based on Hydraulic Modelling carried out by JBA in respect of the Flood Risk Assessment prepared in relation to Q3 of The Park, Carrickmines. As indicated on Figure 4.1 in the SFRA Flood Zone A is situated within the north-eastern side of the site.
- 7.5.6. It is detailed in the SFRA that no development is proposed within the area of the site located within Flood Zone A. No changes are proposed to be made to the flood plain area on the site. The flood level on site is +79.00mAOD based on the Hydraulic Modelling carried out by JBA. The ground floor level is proposed at +84.00mAOD and the basement car park level is proposed at +80.80mAOD. In relation to the justification test for flood risk, the proposed use of the risk area of the development which is located near the stream is a soft landscaped area. A viewing platform is proposed at the northern area of the site where the wetland planting is located. It is proposed to be constructed as a water compatible structure. The level of the platform is proposed at +80.1mAOD.
- 7.5.7. As detailed in the Water Services Report prepared by CORA Consulting Engineers the surface water strategy is coordinated with the site landscaping to ensure that surface water generated on site is retained on site. All roofs within the scheme are proposed to be covered with sedium. Runoff from the sedium roofs is proposed to be directed to irrigate low level planters and soft landscaping at the ground floor podium level. Run-off from the podium level is proposed to be directed to infiltration basins located in the soft landscaped areas which are adjacent to the stream.
- 7.5.8. It was identified in the source-pathway-receptor analysis that a possible source of flood risk could arise from the surcharging or blockage of the development's drainage system. However, I note that this risk is mitigated by the integrated landscaping and surface water treatment strategy for the site. The strategy surface water strategy will significantly reduce run-off from the site to the public surface

water drainage infrastructure and will also reduce the localised flood risk from the site.

- 7.5.9. Having regard to the conclusions of the Site Specific Flood Risk Assessment it is considered that the proposed development would not result in displacement of fluvial floodwaters, would not result in an adverse impact to the hydrological regime of the area nor an increase in flood risk elsewhere. The proposed development would therefore be acceptable in terms of flood risk in the area.
- 7.5.10. Accordingly, I am satisfied with the submitted proposal subject to the details set out above being satisfactorily addressed by condition.

Part V of the Planning and Development Act, 2000, as amended

- 7.5.11. As detailed in the Planning report submitted with the application, the applicant engaged in Part V discussions with the DLR Housing Department in relation to the provision of Part V units in lieu of the land included in the application. The report of the Housing Department dated the 30th of April 2021 stated that the applicant is proposing to comply with the Part V requirement for the proposed development by way of transfer of 7 units on site. As detailed in the report the Housing Department stated that in order to fully assess the applicant's proposal, they will require in the event that planning permission is granted, a detailed submission to include, inter alia, existing and development use land values, construction, development and any attributable costs associated with the development. It was concluded in the report of the Housing Department that that should a decision be made to grant planning permission for the proposed development a condition be attached requiring the applicant/developer to enter into an agreement in accordance with Part V of the Planning and Development Act, 2000, as amended, prior to commencement, unless the applicant/developer shall have applied for and been granted an exemption certificate under section 97 of the Acts.
- 7.5.12. It is noted that in the interim since the decision of the Planning Authority was issued on the 26th of May 2021, changes to Part V of the Planning and Development Act, 2000, as amended, have taken effect from the 3rd of September 2021. Accordingly, these new legislative provisions set out timeframes in respect of the percentage Part V requirement. Should the Board decide to grant permission, I would note that the

attachment of the standard condition referring to Part V will satisfactorily address any contingencies which may arise as a result of these legislative changes.

Archaeology

7.5.13. The appeal site is located within the historic area of Carrickmines and within proximity (circa 355m) from Recorded (RMP No. DU026-005001) which refers to Carrickmines Castle. The report from the Development Applications Unit of the Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media dated the 10th of May 2021 stated that the National Monuments Service recommend that conditions referring to pre-development archaeological assessment be included in a grant of planning permission. Should the Board decide to grant permission, I would recommend that attachment of a condition requiring archaeological appraisal of the site.

Material Contravention

7.5.14. Refusal reason no. 6 issued by the Planning Authority stated that, 'the proposed development would therefore materially contravene the zoning objective for the area, which is 'to protect and or improve residential amenity' and therefore would be contrary to the proper planning and sustainable development of the area.' The issue of concern of this relates to the potential for overshadowing and overbearing. Having regard to my assessment as set out in section 7.3 of the report I would not concur with the assessment of the Planning Authority that the proposed development would materially contravene the zoning objective for the area.

7.5.15. Section 37(2)(b) of the Planning and Development Act 2000, (as amended) states that the Board may decide to grant a permission even if the proposed development contravenes materially the development plan. Section 37(2)(b) (i)-(iv) lists the circumstances when the Board may grant permission in accordance with section 37(2)(a).

7.5.16. Under section 37(2)(b) (i) the proposed development can considered to be of strategic and national importance having regard to its potential to contribute to the achievement of the Government's policy to increase delivery of housing from its current under supply set out in Rebuilding Ireland – Action Plan for Housing and Homelessness issued in July 2016; and (iii) permission for the development should be granted having regard to guidelines under section 28 of the Act, specifically

SPPR 3 of the Building Height Guidelines which states that where a development complies with the Development Management Criteria in section 3.2, it may be approved, even where specific objectives of the relevant development plan or local area plan may indicate otherwise and national policy in Project Ireland 2040 National Planning Framework (in particular objectives 13 and 35). An assessment of the proposed development was carried out to determine that the proposed development conforms with the development management criteria in section 3.2 of those guidelines. I refer the Board to section 7.1 and section 7.2 of this report which addresses these matters in detail.

7.5.17. Accordingly, having regard to the details set out above, I am satisfied that a grant of permission, that may be considered to materially contravene the Dún Laoghaire-Rathdown County Development Plan is justified in this instance.

7.6. **Appropriate Assessment**

Stage 1 Screening

- 7.6.1. An AA screening report is submitted with the application. It was prepared by Moore Group Environmental Services. The report describes the development and identifies that the appeal site is not located within or directly adjacent to any Natura 2000 sites. It addresses a number of sites within a 15km catchment. I have reviewed the NPWS web site and consider that there are no other sites that would be within the zone of influence of the subject site or that have a potential hydrological link to the site.
- 7.6.2. There is an existing watercourse on the northern boundary of the site, the Golf Stream, which discharges to the Carrickmines Stream, a tributary of the Shanganagh River. The Shanganagh River discharges into the coastal waters of Killiney Bay circa 4.5km downstream, within which Rockabill to Dalkey Island SAC and Dalkey Island SPA are located.
- 7.6.3. The nearest European site to the subject site is Knocksink Wood SAC it located circa 4.59km from the site. Ballyman Glen SAC is located circa 4.8km to the south. Knocksink Woods SAC and the Ballyman Glen SAC are situated a higher elevation than that of the site and are located in a separate river catchment. There is, therefore, no scope for the development to negatively impact the groundwater which

feeds these habitats. The qualifying interests of both sites would not be affected by the proposed development.

7.6.4. Rockabill to Dalkey Island SAC circa 6.7km to the east and Dalkey Island SPA. The Screening Report considers whether the proposed development would have any potential impact on the qualifying interests and conservation objectives of these sites.

7.6.5. The qualifying interests/special conservation interests of the designated sites, are summarised as follows:

Rockabill to Dalkey Island SAC –Site Code (003000)	Dalkey Island SPA –Site Code (004172)
Reefs [1170]	Roseate Tern (<i>Sterna dougallii</i>) [A192]
Harbour porpoise (<i>Phocoena phocoena</i>) [1351]	Common Tern (<i>Sterna hirundo</i>) [A193]
	Arctic Tern (<i>Sterna paradisaea</i>) [A194]

7.6.8. The Conservation Objectives for Rockabill to Dalkey Island SAC (003000) is to maintain the favourable conservation condition of Reefs in the SAC, which is defined by a list of attributes and targets and to maintain the favourable conservation condition of Harbour porpoise in the SAC, which is defined by a list of attributes and targets. The Conservation Objective for Dalkey Island SPA (004172) is to maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.

7.6.9. Given that the northern site boundary is adjacent to the Golf stream there is potential for hydrological impacts in the area arising from excavation, surface water runoff and discharge from the subject site during construction phase. The report submitted by Inland Fisheries Ireland noted that the proposed development is located on the Carrickmines river system with the Golf stream running through the site. It supports a resident population of Brown trout and further downstream they support a migratory population of Sea trout a condition is requested in this regard.

7.6.10. In relation to the matter of potential hydrological impacts during the construction phase having regard to the distance between the subject site and the European sites

at Killiney Bay there is capacity for dilution of any potential pollutants near the subject site within the local drainage network.

- 7.6.11. During the operational phase, the main potential impacts would arise from surface water run-off and foul drainage. The proposed attenuation measures would reduce variations in the runoff from the site. There is no potential, therefore, for the proposed development to alter the volume or characteristics of the flows into or from the surface water sewerage system that could conceivably have a significant effect on any Natura 2000 site. The foul effluent from the proposed development would drain to the existing Carrickmines Valley Sewer which runs to the Shanganagh wastewater treatment plant. The effluent is treated and then discharged into Killiney Bay. The Rockabill to Dalkey Islands SAC is located off shore approximately 1.4km from the mouth of the Shanganagh River. The proposed development is likely to result in a marginal increase in the discharge of wastewater to the Irish Sea. The development will incorporate SuDS and drain to the municipal system. It is considered that there is no risk that pollutants could reach the European sites in sufficient concentrations to have any likely significant effects on their qualifying interests.
- 7.6.12. In relation to in combination or cumulative effects it is noted in the Screening Report that a number of developments have been permitted in the vicinity of the site at Glenamuck and Carrickmines. Subject to appropriate drainage and wastewater treatment requirements being implemented for these developments then there will be no significant adverse effects due to the proposed project as a result of any in combination effects with these individual planning applications.
- 7.6.13. The proposed development would not be likely to have any significant effects on any Natura 2000 site, either directly or indirectly or in combination with other plans and projects.

AA Screening Conclusion

- 7.6.14. It is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European Site No. (003000) and European Site No. (004172) or any other European site, in view of the site's Conservation

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

8.0 Recommendation

8.1. I recommend a grant of permission.

9.0 Reasons and Considerations

9.1. Having regard to the zoning objective for the site as set out in the Dún Laoghaire Rathdown County Council, 2016 – 2022, the National Planning Framework, 2018 – 2040, the Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities (2009), Urban Development and Building Heights, Guidelines for Planning Authorities, (2018), and the overall scale, design and height of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would achieve an acceptable standard of urban design and would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would respect the existing character of the area and would be acceptable in terms of traffic and pedestrian safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

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

Reason: In the interest of clarity.

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

Reason: In the interest of public health.

3. The developer shall enter into water and wastewater connection agreements with Irish Water prior to the commencement of this development.

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

4. Prior to the commencement of the development, the applicant shall submit to the Planning Authority for its written agreement proposals for the implementation of Mitigation measures identified in the approved Site Specific Flood Risk Assessment for the application. Final details of the appearance of flood flow-path areas shall also be provided and approved by the Planning Authority prior to the commencement of the development.

Reason: In the interest of public health.

5. Prior to commencement of development, land required by the planning authority for the future Kilternan Link Road to the south/east boundary of the site (as indicated in the lodged documentation) shall be reserved for implementation of the road. A drawing illustrating compatibility with the future Kilternan Link Road shall be submitted to the Planning Authority for approval. Details shall include details of the road reservation area, construction of temporary footpaths, future permanent vehicular entrance and the boundary treatment. Future purchasers shall be made aware of agreed details at the point of sale and the applicant shall ensure that the Kilternan Link Road Reservation line is set out by the contractor and agreed with the Planning Authority.

Reason: In the interest of traffic safety and to prevent the development of this area prior to its use for future road improvements.

6. The site access arrangements and the internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, shall be in accordance with the detailed requirements of the planning authority for such works. All residential parking spaces shall be constructed so as to be capable of accommodating future electric vehicle charging points with a minimum 10% of spaces to be fitted with functional electric vehicle charging points

Reason: In the interests of amenity and of pedestrian and traffic safety.

7. Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

8. Details of all boundary treatments shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of visual and residential amenity.

9. The developer shall appoint and retain the services of a qualified Landscape Architect (or qualified Landscape Designer) as a Landscape Consultant, throughout the life of the construction works and shall notify the planning authority of that appointment in writing prior to commencement of development. A practical completion certificate shall be signed off by the Landscape Architect when all landscape works are fully completed to the satisfaction of the planning authority and in accordance with the permitted landscape proposals.

Reason: To ensure full and verifiable implementation of the approved landscape design.

10. Prior to commencement of any permitted development, the developer shall engage the services of a qualified arborist as an arboricultural consultant, for the entire period of construction activity. The developer shall inform the planning authority in writing of the appointment and name of the consultant, prior to commencement of development. The consultant shall visit the site at a minimum on a monthly basis, to ensure the implementation of all of the recommendations in the tree reports and plans. To ensure the protection of trees to be retained within the site, the developer shall implement all the recommendations pertaining to tree retention, tree protection and tree works, as detailed in the in the submitted Tree Survey Report. All tree felling, surgery and remedial works shall be completed upon completion of the works. All works on retained trees shall comply with proper arboricultural techniques conforming to BS 3998: 2010 Tree Work – Recommendations. The clearance of any vegetation including trees and shrub shall be carried out outside the bird-breeding season (1 March–31 August inclusive) or as stipulated under the Wildlife Acts 1976 and 2000. The arborist shall carry out a post construction tree survey and assessment on the condition of the retained trees. A completion certificate is to be signed off by the arborist when all permitted development works are completed and in line with the recommendations of the tree report. The certificate shall be submitted to the planning authority upon completion of the works.

Reason: To ensure and give practical effect to the retention, protection and sustainability of trees during and after construction of the permitted development.

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

Reason: In the interests of visual and residential amenity.

12. Proposals for the development name and apartment numbering scheme and associated signage shall be submitted to and agreed in writing with the planning authority prior to commencement of development. Thereafter, signs and numbers, shall be provided in accordance with the agreed scheme. No advertisements/marketing signage relating to the name of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.

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

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

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

14. 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.

Reason: To provide for and/or future proof the development such as would facilitate the use of Electric Vehicles.

15. A plan containing details for the management of waste within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities shall be submitted to, and agreed in

writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: In the interests of residential amenity and proper waste management.

16. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any unit.

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

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

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

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

The assessment shall address the following issues:

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

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

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

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

18. 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 97(7) applies) may be referred by the planning authority or any other prospective party to the agreement to the Board 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 for the area.

19. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer

or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion of the development.

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.

21. The developer shall pay to the planning authority a financial contribution in respect of the extension of Luas Line B1 – Sandyford to Cherrywood' in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions (refer to SCSl Price Tender Index) of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such

agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

Siobhan Carroll
Planning Inspector

8th of October 2021