



An  
Bord  
Pleanála

## Inspector's Report

### ABP-310690-21

#### Development

Demolition of a two-storey warehouse/office building on site and construction of an up to nine storey aparthotel, consisting of 124 suites with associated ancillary support facilities.

#### Location

Grafton House, Ballymoss Road,  
Sandyford Business District, Dublin 18

#### Planning Authority

Dún Laoghaire Rathdown County  
Council

#### Planning Authority Reg. Ref.

D21A/0295

#### Applicant(s)

Espirit Investments Ltd

#### Type of Application

Permission

#### Planning Authority Decision

Refuse

#### Type of Appeal

First Party

#### Appellant(s)

Espirit Investments Ltd

#### Observer(s)

None

**Date of Site Inspection**

13<sup>th</sup> June 2023

**Inspector**

Lorraine Dockery

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## 1.0 Site Location and Description

- 1.1. The site, which has a stated area of 0.26 hectares, is located on Ballymoss Road, Sandyford, Dublin 18. The existing two-storey structure on site originally had an office and warehouse use but is currently occupied by Goatstown Stillorgan Educate Together primary school. There is associated parking to the front and an area utilised as a school yard to the rear. A four-storey office block (Silverstone House) is located to the south, a vacant single storey building is located to its north (for which permission has been granted for 190 BTR apartments) while to the west is the site of the former Aldi, recently constructed as a build to rent development, comprising 564 no. units in a part 16/17 storey block. A level difference is noted with the site to the west.
- 1.2. There is pedestrian access only from Ballymoss Road to Blackthorn Avenue to the north. Public realm works were underway in this area at the time of my site visit. The Stillorgan LUAS stop is located approximately 100m north of the site.

## 2.0 Proposed Development

- 2.1. The proposed development will consist of the demolition of an existing two-storey structure on site and the construction of an aparthotel comprising 124 no. suites, up to nine storeys in height, with associated ancillary support facilities at ground floor level including a café and all associated site development works. The key statistics of the proposal are as follows:

Table 1:

Key Statistics	
Site Area	0.26ha
Demolition Works	1016m <sup>2</sup>
No. of Units	124 suites comprising: 75 no. one-bed and 49 no. two-beds
Ancillary Services	300m <sup>2</sup> - gym, laundry, café, multi-purpose room

Additional works	Additional vehicular access onto Ballymoss Road and set-down area; ESB substation and switch room; landscaped terrace at 5 <sup>th</sup> and 8 <sup>th</sup> floors and public realm upgrades to Ballymoss Road
Height	5-9 storeys
Plot Ratio	1:2.85
Parking	37 no. car parking spaces at basement level 36 no. cycle spaces at basement; 14 at surface level

### 3.0 Planning Authority Decision

#### 3.1. Decision

Permission REFUSED for four no. reasons as follows:

1. In terms of the reasonably conceivable range of tenures and accommodation models that this proposed building could facilitate during its lifetime, the proposed development does not provide sufficient levels of residential amenity to the guests/occupants of the building in terms of room sizes, open space, access to daylight/sunlight etc. The proposed development would in itself, and by virtue of the precedent it would create, be contrary to the proper planning and sustainable development of the area.
2. The submitted application has not adequately demonstrated that the proposed development would have no negative impact on residential amenity on the permitted development to the north west of the site and therefore fails to comply with Objective BH2: Building Height and Section 3.2.1 of the Sandyford Urban Framework Plan which seeks to have regard to the need to minimise adverse impacts on adjoining residential properties. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

3. The proposed development would endanger public safety by reason of inadequate provision of the ramped access and set down area as vehicles would have to reverse and obstruct the two way traffic in Ballymoss Road in order to drive out of the cul-de-sac towards Carmanhall Road which would give rise to a traffic hazard or obstruction of road users. The proposed development would, therefore, be contrary to the proper planning and development of the area.
4. The site of the proposed development has been identified in Section 3.5 (Design Principles and Character Areas) as Site 3 in the Sandyford Urban Framework Plan for which clear guidelines are specified. Having regard to the design and layout of the proposed development, the height- which is 50% higher than the maximum permitted under the Sandyford Urban Framework Plan- the failure to acknowledge an objective on the adjoining site for a building of notable design to be provided, the proposed development fails to comply with Policy UD1 Urban Design Principles of the Dún Laoghaire-Rathdown County Council Development Plan 2016-2022 and with the Council's Building Height Strategy as contained in Appendix 9 of the County Development Plan. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

Note: The Applicant is advised that there are a number of significant issues in addition to the above reasons for refusal that need to be addressed in any future planning application for this site. These include- Drainage Planning issues, Transportation Planning and impact on future residential amenities all of which are outlined in the planner's report.

## **3.2. Planning Authority Reports**

### **3.2.1. Planning Reports**

- While an aparthotel on this site is acceptable in principle, the scheme as proposed is not acceptable as it effectively provides for residential units that fall below the applicable development standards. Furthermore, a residential scheme that would address these issues of development standards would not be in compliance with the Sandyford Urban Framework Plan

- A refusal is recommended on the issue of height and residential quality

### 3.2.2. Other Technical Reports

Drainage Planning: Further information requested in relation to attenuation, green roofs, SuDS and flood risk

Transportation Planning: Further Information requested in relation to width of proposed access ramp, motorcycle and cycle parking and staff changing facilities

Architects Division: Proposed development will have no impact on proposed civic space at Ballymoss Road

EHO Planning: Further Information requested in relation to submission of an Operational Waste Management Plan

Public Lighting Section: No lighting designs have been submitted

### 3.3. Prescribed Bodies

Uisce Eireann: No objections, subject to conditions

### 3.4. Third Party Observations

None

## 4.0 Planning History

### D18A/1210

Permission GRANTED for temporary change of use of existing building for use as temporary primary school

### D18A/1003

Permission REFUSED for demolition of existing structure and construction of six storey over basement hotel with 185 bedrooms. Reasons for refusal are similar to the reasons for refusal in the current appeal

An appeal was made to An Bord Pleanála (PL06D.313425) but was subsequently withdrawn.

The Board is referred to the relevant section of the Planner's Report for applications of note on adjacent sites.

## 5. Policy Context

### 5.1 National Policy

- National Planning Framework – Project Ireland 2040
  - NPO11 to favour development that can encourage more people to live or work in existing settlements; NPO13 which is that planning standards in urban areas should be based on performance criteria; NPO 27 which is to ensure the integration of safe and convenient alternatives to the car into the design of communities; NPO 35 to increase residential density in settlements, including increased building heights; NPO 54 to reduce our carbon footprint by integrating climate action into the planning system; and NPO 64 to improve air quality through supporting public transport, cycling and walking as more favourable modes of transport than the private car
- Regional Spatial and Economic Strategy for the Eastern and Midland Region (2019)
- Urban Development and Building Height Guidelines for Planning Authorities (2020)
- Urban Design Manual - A Best Practice Guide (2009)
- Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice (BR 209 2022 Edition)
- Design Manual for Urban Roads and Streets (2019). BRE' Site Layout Planning for Daylight and Sunlight' (2nd edition)
- BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'
- BS EN 17037:2018 'Daylight in Buildings'
- The Planning System and Flood Risk Management- Guidelines for Planning Authorities (2009)



## 5.2 Development Plan

The Dún Laoghaire Rathdown County Development Plan 2022-2028 is the operative County Development Plan.

Zoning: 'Objective MOC' which seeks 'To provide for a mix of uses which complements the Mixed Use Inner Core, but with less retail and more emphasis on employment and services'. (Table 13.1.18)

'Aparthotel' is 'Permitted in Principle' under this zoning objective

### **Appendix 5: Building Height Strategy**

#### **Policy Objective BHS 1- Increased Height**

It is a policy objective to support the consideration of increased heights and also to consider taller buildings where appropriate in the Major Town Centres of Dún Laoghaire and Dundrum, the District Centres of Nutgrove, Stillorgan, Blackrock and Cornelscourt, within the Sandyford UFP area, UCD and in suitable areas well served by public transport links (i.e. within 1000 metres/10 minute walk band of LUAS stop, DART stations or Core/Quality Bus Corridor, 500metres/5 minute walk band Bus Priority Route) provided that proposals ensure a balance between the reasonable protection of existing amenities and environmental sensitivities, protection of residential amenity and the established character of the area (NPO 35, SPPR 1 & 3).

Having regard to the Building Height Guidelines and more specifically in order to apply SPPR 3 there may be instances where an argument can be made for increased height and/or taller buildings in the areas mentioned above. In those instances, any such proposals must be assessed in accordance with the performance based criteria set out in table 5.1 which is contained in section 5. The onus will be on the applicant to demonstrate compliance with the criteria.

Within the built-up area of the County increased height can be defined as buildings taller than prevailing building height in the surrounding area. Taller buildings are defined as those that are significantly taller (more than 2 storeys taller) than the prevailing height for the area.

**Policy Objective BHS 2- Building Height in areas covered by an approved Local Area Plan or Urban Framework Plan (UFP must form part of the County Plan).**

It is a policy objective to promote and support proposed heights as set out in any approved statutory Local Area Plans and as set out for certain areas in this County Development Plan (Sandyford Urban Framework Plan area, Dundrum Urban Framework Plan Area and Dún Laoghaire Urban Framework Plan area).

Having regard to the Building Height Guidelines and more specifically in order to apply SPPR 3 there may be instances where an argument can be made for increased height and/or taller buildings in the areas mentioned above on the basis of placemaking. In those instances, any such proposals must be assessed in accordance with the performance based criteria set out in table 5.1 which is contained in section 5. The onus will be on the applicant to demonstrate compliance with the criteria.

Within the built-up area of the County increased height can be defined as buildings taller than prevailing building height in the surrounding area. Taller buildings are defined as those that are significantly taller (more than 2 storeys taller) than the prevailing height for the area.

**Section 5 Performance Based Criteria**

**Table 5.1 Criteria for assessing proposals for increased height** (defined as building or buildings taller than prevailing building heights in the surrounding urban areas) or taller buildings or for a building that is higher than the parameters set out in any LAP or any specific guidance set out in this County Development Plan, must demonstrate satisfaction with the following criteria.

**Appendix 16 Sandyford Urban Framework Plan 2022-2028**

Drwg. 1- site is located within Sandyford Business Park

Zone 2: Mixed Use Core Area- Outer Core

Objective MC5- It is an objective of the Council pursuant to SLO 50 (Map 1), to seek the provision of ground floor uses that animates and provides extended life to the proposed civic plaza at the entrance to Ballymoss Road and the junction with

Blackthorn Drive and the design principles and character areas indicated in the Sandyford Urban Framework Plan (Sandyford Urban Framework Plan).

**Map 3** sets a Proposed Building Height Limit of 6 storeys for this site

A 'Building to be of notable design' is earmarked for the adjoining site to the north

### 3.2 Building Height Policies and Objectives

**3.2.1 Policy Sandyford Urban Framework Plan 3 Building Height in Sandyford Business District-** It is Council Policy that building height in Sandyford Business District accords with the height limits indicated on Building Height Map 3, subject to policy objectives BHS1 and BHS2 of the Dún Laoghaire Rathdown County Development Plan 2022-2028. (consistent with NP0 35 of the NPF, SPPR 3 of the 'Urban Development and Building Height; Guidelines for Planning Authorities' (2018)).

Having regard to the Building Height Guidelines and more specifically in order to apply SPPR 3 there may be instances where an argument can be made for increased height and/or taller buildings than those outlined in Building Height Map 3. In circumstances where compliance with policy objective BHS1 and BHS2 of the County Development Plan (see Appendix 5) can be demonstrated additional height may be appropriate, subject to complying with the safeguards outlined in these policies and any development limits set out in the Sandyford Urban Framework Plan and the performance based criteria as set out in Table 5.1 of the BH Strategy (See Appendix 5).

### 5.3 Natural Heritage Designations

None

### 5.4 EIA Screening

The proposed development is not listed in Schedule 5 (Part 1 or Part 2) of the Planning and Development Regulations 2001 as amended, nor does the proposal meet the requirements for sub-threshold EIA as outlined in Section 103 of the

Planning and Development Regulations 2001 as amended. No Environmental Impact Assessment (EIA) is therefore required.

## **5.5 Appropriate Assessment Screening**

- 5.5.1 I highlight to the Board that the appeal is not accompanied by the applicant's screening report. It is stated by the applicants in section 7 of the submitted Planning Report that an Appropriate Assessment Screening Report, prepared by Openfield Ecological Services was submitted with the application. It is also stated on Page 4 of 5 of the submitted cover letter at application stage that such a report was submitted. The planning authority state on Page 1 of their DLRCC AA Screening Report that the application is accompanied by an AA Screening Report. No such report is attached to my file. The planning authority have been contacted in this regard and state that they cannot find the report. It is not on their online system. I shall undertake AA screening based on the information available to me. However, the Board may wish to use its powers under Section 132 of the Planning and Development Act 2000 (as amended) in this regard and request the submission of the said report from the applicant.
- 5.5.2 Within the DLRCC AA Screening Report it is stated that the proposed development has been screened for AA and it has been determined that the proposed development would not significantly impact upon a Natura 2000 site. DLRCC AA Screening Report is attached to the file. Section 7 of the submitted Planning Report, submitted as part of the first party application documentation states that on the basis of the screening exercise carried out, it can be concluded that the possibility of any significant impacts on any European Sites, whether arising from the project itself or in combination with other plans and projects, can be excluded on the basis of the best scientific knowledge available.
- 5.5.3 I note the site is not located within or directly adjacent to any Natura 2000 sites. I note the screening for AA undertaken for adjacent sites and would anticipate a similar set out circumstances to pertain to this current site. The decision of the Board in relation to screening on these adjacent sites is noted. I consider the following designated sites to be within the Zone of Influence:

Table 2:

Site Name (Site Code)	Approximate Distance to Development Site	Qualifying Interests/ SCI Conservation Objectives
South Dublin Bay SAC (000210)	3.5km	<p>Mudflats and sandflats not covered by seawater at low tide</p> <p>Annual vegetation of drift lines</p> <p>Salicornia and other annuals colonising mud and sand</p> <p>Embryonic shifting dunes</p> <p><u>Conservation Objective:</u></p> <p>To maintain the favourable conservation condition of the Annex I habitat for which the SAC has been selected.</p>
Wicklow Mountains SAC (Site Code 002122)	<7km	<p>Oligotrophic waters containing very few minerals of sandy plains</p> <p>Natural dystrophic lakes and ponds</p> <p>Northern Atlantic wet heaths with <i>Erica tetralix</i></p> <p>European dry heaths</p> <p>Alpine and Boreal heaths</p> <p>Calaminarian grasslands of the <i>Violetalia calaminariae</i></p> <p>Species-rich <i>Nardus</i> grasslands, on siliceous substrates in mountain areas (and submountain areas, in Continental Europe)</p> <p>Blanket bogs (* if active bog)</p> <p>Siliceous scree of the montane to snow levels (<i>Androsacetalia alpinae</i> and <i>Galeopsietalia ladani</i>)</p> <p>Calcareous rocky slopes with chasmophytic vegetation</p> <p>Siliceous rocky slopes with chasmophytic vegetation</p> <p>Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles</p> <p><i>Lutra lutra</i> (Otter)</p>

		<p><u>Conservation Objective:</u></p> <p>To maintain or restore the favourable conservation condition of the Annex I habitat(s) for which the SAC has been selected</p>
Knocksink Wood SAC (Site Code 000725)	7km	<p>Petrifying springs with tufa formation</p> <p>Old sessile oak woods with Ilex and Blechnum in the British Isles</p> <p>Alluvial forests with Alnus glutinosa and Fraxinus excelsior</p> <p><u>Conservation Objectives</u></p> <p>To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected</p>
Ballyman Glen SAC (000713)	8.5km	<p>Petrifying springs with tufa formation (Cratoneurion)</p> <p>Alkaline fens</p> <p><u>Conservation Objectives</u></p> <p>To maintain or restore the favourable conservation condition of Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.</p>
Rockabill to Dalkey Island SAC (Site Code 003000)	8.5km	<p>Reefs</p> <p>Harbour Porpoise</p> <p><u>Conservation Objective:</u></p> <p>To maintain the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.</p>
North Dublin Bay SAC (Site Code 000206)	8.5km	<p>Mudflats and sandflats not covered by seawater at low tide</p> <p>Annual vegetation of drift lines</p> <p>Salicornia and other annuals colonising mud and sand</p> <p>Atlantic salt meadows</p> <p>Mediterranean salt meadows</p> <p>Embryonic shifting dunes</p> <p>Shifting dunes along the shoreline with white dunes</p>

		<p>Fixed coastal dunes with grey dunes</p> <p>Humid dune slacks</p> <p>Petalwort</p> <p><u>Conservation Objective:</u></p> <p>To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.</p>
Glenasmole Valley SAC (Site Code 001209)	10.5km	<p>Semi-natural dry grasslands and scrubland facies on calcareous substrates (* important orchid sites)</p> <p>Molinia meadows on calcareous, peaty or clayey-silt laden soils</p> <p>Petrifying springs with tufa formation</p> <p><u>Conservation Objective:</u></p> <p>To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.</p>
Bray Head SAC (000714)	12.5km	<p>Vegetated sea cliffs of the Atlantic and Baltic coasts</p> <p>European dry heaths</p> <p><u>Conservation Objective:</u></p> <p>To maintain or restore the favourable conservation condition of the Annex I habitat(s) for which the SAC has been selected.</p>
Howth Head SAC (Site Code 000202)	13km	<p>Vegetated sea cliffs of the Atlantic and Baltic coasts</p> <p>European dry heaths</p> <p><u>Conservation Objective:</u></p> <p>To maintain the favourable conservation condition of the Annex I habitats for which the SAC has been selected.</p>
Baldoyle Bay SAC (Site Code 000199)	14km	<p>Mudflats and sandflats not covered by seawater at low tide</p> <p>Salicornia and other annuals colonising mud and sand</p> <p>Atlantic salt meadows</p>

		<p>Mediterranean salt meadows</p> <p><u>Conservation Objective:</u></p> <p>To maintain the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.</p>
<p>South Dublin Bay and River Tolka Estuary SPA (Site Code 004024)</p>	<p>3.5km</p>	<p>Light-bellied Brent Goose</p> <p>Oystercatcher</p> <p>Ringed Plover</p> <p>Grey Plover</p> <p>Knot</p> <p>Sanderling</p> <p>Dunlin</p> <p>Bar-tailed Godwit</p> <p>Redshank</p> <p>Black-headed Gull</p> <p>Roseate Tern</p> <p>Common Tern</p> <p>Arctic Tern</p> <p>Wetlands &amp; Waterbirds</p> <p><u>Conservation Objective:</u></p> <p>To maintain the favourable conservation condition of the species and wetland habitat for which the SPA has been selected</p>
<p>North Bull Island SPA (Site Code 004006)</p>	<p>10km</p>	<p>Light-bellied Brent Goose</p> <p>Shelduck</p> <p>Teal</p> <p>Pintail</p> <p>Shoveler</p> <p>Oystercatcher</p> <p>Golden Plover</p> <p>Grey Plover</p> <p>Knot</p> <p>Sanderling</p> <p>Dunlin</p> <p>Black-tailed Godwit</p> <p>Bar-tailed Godwit</p> <p>Curlew</p> <p>Redshank</p>



		Turnstone Black-headed Gull Wetlands & Waterbirds <u>Conservation Objective:</u> To maintain the favourable conservation condition of the species and wetland habitat for which the SPA has been selected.
Poulaphouca Reservoir SPA (Site Code 004063)	18km	Greylag Goose ( <i>Anser anser</i> ) Lesser Black-backed Gull ( <i>Larus fuscus</i> ) <u>Conservation Objective:</u> To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA

5.5.4 All of the above designated sites are within 15km of the development site. The development will not result in any habitat loss to any of the designated sites. Nor is it expected to increase disturbance effects to birds in Dublin Bay due to the distance of the site from these sensitive areas. Existing habitat on site is noted, which would not appear suitable for any over-wintering species. The site is brownfield in nature and is substantially hard surfaced. The development is connected to European sites within Dublin Bay via the surface water and foul water networks. A new foul drainage system will be provided to connect the proposed building to the existing public sewer in Ballymoss Road. The proposed surface water system has been designed in accordance with the Greater Dublin Regional Code of Practice for Drainage Works. SuDS measures are proposed. Irish Water has not expressed objections to the proposal, subject to conditions. Matters raised by the Drainage Division of the planning authority could be adequately dealt with by means of condition, in my opinion. The submitted Flood Risk Assessment notes that there are no records of flooding at or adjacent the site and it is not located beside any major watercourse and/or tidal waters. Flood risk is considered not to be significant. In terms of surface water pollution within Dublin bay, I am of the opinion that any pollution event is likely to be short in duration and there would be dilution within the

existing drainage network and receiving water environment. During the construction phase, a suite of best practice construction measures will be employed. These are standard design measures and are not considered to provide mitigation for any negative effect to a Natura 2000 site.

- 5.5.5 In terms of connectivity to Dublin Bay via the municipal wastewater system to Ringsend Wastewater Treatment Plant, I note that the new foul drainage system for the development will connect to the Irish Water network and Uisce Eireann have expressed no objections to the proposal, subject to conditions. Foul wastewater discharge from the proposed project will be treated at the Irish Water Wastewater Treatment Plant at Ringsend prior to discharge to Dublin Bay. The Ringsend WWTP operates under licence from the EPA (Licence no. D0034-01) and received planning permission (ABP Reg. Ref.: 301798) in 2019 for upgrade works. Regardless of the status of the WWTP upgrade works, the peak discharge from the proposed project is not significant in the context of the existing capacity available at Ringsend. Irish Water have not expressed any objections to the proposal.
- 5.5.6 Based on the information before me, it appears that the proposed development is not dependent or connected to any other development. Other developments in the vicinity of the site are subject to the terms of the operative Development Plan which was itself the subject of appropriate assessment. It is therefore concluded that the proposed development would not in culmination with other plans or projects, be likely to have significant effects on any Natura 2000 site. I am of the opinion that this matter does not require further in-depth scientific examination.
- 5.5.7 I again highlight to the Board the lack of an AA Screening Report from the applicants on file and they may wish to seek further information in this regard. Notwithstanding the absence of this report, I have undertaken a screening assessment based on the site visit undertaken, information on file, the reports of the planning authority, the planning history of adjoining sites, including appropriate assessment, (Ref. 305940) and information on the NPWS website. Given all of the information outlined above, it appears evident to me from the information available in this case that the proposed development would not be likely to have a significant effect on any Natura 2000 site, whether directly or indirectly or individually or in combination with any other plan or

project. It is therefore concluded that, on the basis of the information on the file, which is adequate in order to issue a screening determination, that the proposed development, either individually or in combination with other plans or projects, would not be likely to have a significant effect on any other European site, in view of the site's Conservation Objectives, and a Stage 2 Appropriate Assessment is not required. This screening determination is not reliant on any measures intended to avoid or reduce potentially harmful effects of the project on a European Site.

## **6 The Appeal**

### **6.1 Grounds of Appeal**

#### Reason No. 1

- Proposed development comprises an aparthotel, which is effectively the same as hotel use, but is distinct from residential use in that it is based on self-service, short-term accommodation units (suites) sharing a reception area and managed in the same way as a hotel, within a fully serviced building
- Cites D20A/0085 (ABP 307297-20)- application for aparthotel that was considered to fall within definition of hotel/motel as County Development Plan 2016 did not specifically refer to aparthotel use
- Despite description of development in statutory notices and detailed explanation of the proposed development, it is not clear why planning authority would consider this as a BTR apartment development. For avoidance of doubt, the accommodation being proposed is not residential
- Not accepted that there is any degree of similarity between proposed development and serviced apartments within Forum Building on Ballymoss Road. Reason for refusal has no basis in fact; based on misconception as to the nature of use being proposed and is presumptive of scenarios as to how the development may be used in the future; considered unreasonable to attribute residential standards to what is not a residential development
- Would be accepting of conditions over use of development
- Daylight, Sunlight and Overshadowing Assessment submitted with appeal-assessment of selection of ground and first floor suites; considered to be

worst case scenario. All 43 rooms assessed achieve the BRE daylight guidelines and majority meet BRE guidelines for sunlight availability

### Reason No. 2

- Notes separation distances and level differences between subject site and adjoining sites
- Daylight, Sunlight and Overshadowing Assessment submitted with appeal. In terms of daylight assessment, VSC simulation has been calculated for all main windows of surrounding properties which face the subject site, including adjacent site with permission ABP-305940-19
- Given relative levels on each side of boundary, heights approved adjacent, separation distances and absence of fenestration on western elevation of the proposed building, the impacts that the proposal will have on permitted developments to the NW is not significant and no different to the impact of the existing buildings to the south (Silverstone House and Ballymoss House) on the Aldi site, which was granted permission with the same levels of daylight impact and therefore in compliance with Objective BH2 of the Sandyford Urban Framework Plan

### Reason No. 3

- Traffic and Transport Assessment submitted with application examines the operation of the proposed vehicular access arrangements, car parking provision, site layout, facilities for pedestrians and cyclists and assesses the availability of sustainable transport options for residents of the development
- Entry regime is a one-way circulation route which will not give rise to reversing manoeuvres on the at-grade circulation entry adjacent to Ballymoss Road. One-way shuttle system will be controlled by a traffic light and barrier at bottom of ramp to prohibit existing vehicles enter onto the ramp whilst vehicles are entering. Accordingly, no requirement for vehicles to reverse at either top or bottom of ramp. No objective evidence to support inclusion of this reason for refusal

- Proposal will not result in significant traffic hazard or endangerment of public safety or obstruction of road users; well considered, well formulated and succeeds in providing a balanced approach to this matter

#### Reason No. 4

- Height varies from 5 storeys to 9 storeys. Map 3 of Sandyford Urban Framework Plan indicated that the permitted building height on the application site is 6 storeys.
- Current Sandyford Urban Framework Plan is contrary to SPPR1 of Urban Development and Building Height Guidelines, which states that such plans 'shall not provide for numerical limitations on building height'. No longer appropriate that specific height limitation are specified within Sandyford Urban Framework Plan and proposals for high buildings must be considered in context of development management criteria set out under SPPR3 of Building Height Guidelines
- Proposal fully compliant with Building Height Guidelines; clear and robust case for additional height in this instance in both architectural and urban design terms. Will ensure a visual transition to Ballymoss Road and Blackthorn Drive corner that will be the focus of the "Building of Notable Design", Green Route and proposed civic plaza at northern end of Ballymoss Road.
- Consistent with overarching objectives of NPF in promoting compact growth on an infill site within a key economic and residential growth area, located adjacent to high capacity public transport modes.
- Use of building storeys as a measure to control height is overly simplistic and doesn't account for different uses. Zoning of site noted which seeks to provide for a mix of uses
- Proposal accords with proper planning and sustainable development of the area

#### Other Matters

Building of Notable Design-proposal will provide a reasonable context to such a building at this location. No drawing information is publically available as to what

is proposed on this site. Unknown scale and height of this building of notable design is not a material consideration in the determining of this application

Addresses matters raised by planning authority in other Technical Reports

## 6.2 Planning Authority Response

- Reason No. 1 - notes list of restrictive conditions now proposed by applicant; also note difficulty in practicably enforcing such conditions relating to use and length of stay, and in the absence of enforceable conditions how the proposal can be distinguished from a low-quality residential apartment scheme. This is indicated in the number of conditions now proposed and required to maintain any practical difference in terms of operation of the development
- Reason No. 2- notes the new Daylight, Sunlight and Overshadowing Assessment submitted with the appeal, which now assesses the impact on buildings within the neighbouring site to the west under construction
- Reasons 3 and 4- no new planning matters raised; no further comment

## 6.3 Observations

None

## 6.4 Further Responses

None

## 7.0 Assessment

7.1 I have had regard to all the documentation before me, including, *inter alia*, the report of the planning authority; the submissions received; the provisions of the Dún Laoghaire Rathdown Development Plan 2022; relevant section 28 Ministerial guidelines; National Planning Framework; Dublin Metropolitan Area Strategic Plans; provisions of the Planning Acts, as amended and associated Regulations and the nearby designated sites. I have visited the site and its environs. In my mind, the main issues relating to this application are the four reasons for refusal which issued from the planning authority.

7.2 The Board should note that the application, appeals and submissions in this case were made when the 2016-2022 County Development Plan was in place. A new

County Development Plan has been adopted in the interim. The zoning of the site has not changed in the new Plan. However I note that the current, newly adopted Plan references aparthotel in the zoning matrix, which the previous Plan did not. The Building Height Strategy has altered in the current Plan, with upward/downward modifiers now omitted and new Performance Based Criteria to be used in assessing applications for increased height in the County. The Sandyford Urban Framework Plan is now incorporated into the statutory Plan under Appendix 16. The wording of the Building Height Objectives/Policies has altered in the current Sandyford Urban Framework Plan. For example, Policy Sandyford Urban Framework Plan 3 is now subject to policy objectives BHS1 and BHS2 of the operative County Development Plan and I refer the Board to same.

- 7.3 The first reason for refusal stated that in terms of the reasonably conceivable range of tenures and accommodation models that this proposed building could facilitate during its lifetime, the proposed development does not provide sufficient levels of residential amenity to the guests/occupants of the building in terms of room sizes, open space, access to daylight/sunlight etc. The proposed development would in itself, and by virtue of the precedent it would create, be contrary to the proper planning and sustainable development of the area.
- 7.4 The first party appellants strongly refute this reason for refusal and emphasise that this is not a residential development, it is a commercial development. It is not a BTR scheme and are willing to accept conditions in this regard.
- 7.5 I again highlight to the Board that a new County Development Plan has been adopted since the decision of the planning authority issued. The zoning remains unchanged 'Objective MOC' which seeks to 'provide for a mix of uses, which compliments the inner core, but with less retail and residential and more emphasis on employment and services'. The use 'aparthotel' was not a stated use within the zoning matrix of the previous Plan, nor was it defined. The recently adopted operative Plan states (in Table 13.1.18) that 'aparthotel' is 'permitted in principle'. It is now defined as 'A building, or part thereof, containing a minimum of eight self-serviced short-term (for a period no greater than 60 days) accommodation units that share a reception area and which is professionally managed in the same manner as a hotel, where accommodation is provided in the form of apartments or suites within a fully serviced building'. Given the proposal before me has 124 suites and meets

the remaining criteria for such uses, I am of the opinion that the proposal is acceptable in principle on this site.

- 7.6 The planning authority state in their report that the proposed aparthotel use is considered acceptable in principle at this location. However, they then continue to assess the proposal against BTR criteria and state that to all intents and purposes, the scheme's layout, the layout of the units and the quantum of resident support facilities...are all commensurate with a private rental sector scheme. The assessment continues by assessing the proposed development against residential standards and states that there are substandard communal open space, car parking provision, notes north-facing single aspect units and room sizes below the minimum set out. They state that they are concerned that the proposed development would provide for a poor quality of accommodation for longer term occupants, particularly for children and families. Furthermore, the planning authority note the residential cap within areas zoned 'Objective MOC', as set out in the Sandyford Urban Framework Plan and state that, in any event, any residential scheme that would meet the requirements in terms of development standards, would not be in compliance with Sandyford Urban Framework Plan, in particular Objective MC4, which limits the number of residential developments within this zone.
- 7.7 Having regard to all of the above, it is unclear to me why the planning authority assessed this proposal as a residential, BTR development. It is clearly set out in the public notices and in the documentation attached to the file that this is a proposal for an aparthotel not a BTR residential development. The first party appellants are quite clear and unambiguous that this is a commercial development not a residential development. Of note, that while the planning authority assessed this as a residential development they applied contributions at the commercial rate. I also note that the Transportation Division were of the opinion that the car parking standards/requirements should be assessed as a hotel in accordance with operative CDP, namely a non-residential land use.
- 7.8 I consider that the proposal meets the definition of an aparthotel as set out in Chapter 13 of the operative County Development Plan. The planning authority in their response to the appeal note the suggested conditions put forward by the appellants and note the practical difficulties in enforcing such conditions. I am of the opinion that refusing a development on the basis of what it may be used for into the



future is not appropriate. I must assess what is currently applied for, as stated in the application form and the public notices. Any deviation from that or non-compliance with conditions is a matter for enforcement for the planning authority.

- 7.9 I consider the aparthotel use to be commercial in nature; not residential in nature. I consider it to be akin to a hotel use. The Board have also previously been of this opinion and I refer to ABP-307297-20 in this regard. It is the type of use that the planning authority have specifically stated is appropriate within this area. I consider that the attachment of appropriate conditions could satisfactorily deal with any matters relating to use and duration of stays. I am satisfied in this regard and recommend that the Board overturn this reason for refusal.
- 7.10 The second reason for refusal which issued from the planning authority stated that the submitted application has not adequately demonstrated that the proposed development would have no negative impact on residential amenity on the permitted development to the north west of the site and therefore fails to comply with Objective BH2: Building Height and Section 3.2.1 of the Sandyford Urban Framework Plan which seeks to have regard to the need to minimise adverse impacts on adjoining residential properties. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.
- 7.11 The first party refute this reason for refusal and in support of their appeal, have submitted an updated Daylight, Sunlight and Overshadowing Assessment, prepared by metec. I refer the Board to same. The appellants submit that given the relative levels on each side of the boundary, the heights of approved and proposed buildings adjacent, separation distances and absence of fenestration on western elevation of proposed building, the impact the proposed development would have on permitted development to the northwest of the site is not significant. They further state that the impact of the proposal would be no different to the impact of the existing buildings to the south on the Aldi development site, which was granted permission with the same levels of daylight impact. They therefore contend that the proposal is in compliance with Objective BH2 of the Sandyford Urban Framework Plan.
- 7.12 The main concern of the planning authority relating to impact on residential amenity appears to be in relation to the former 'Aldi' site to the NW of the proposal. Construction appears almost complete on this SHD development for BTR units.

Notwithstanding these concerns, the planning authority note that the proposed block would be circa 16m from the adjoining under construction Block E, that the proposed 6<sup>th</sup>-9<sup>th</sup> storeys would be further set back from the elevation and that no habitable rooms would be located on the western elevation. They note that while a 'Shadow Assessment Report' was submitted, and that whilst the form, massing and height has been modulated in relation to the site to the NW, the proposal has not satisfactorily demonstrated that the proposal complied with all of the relevant criteria referenced in SPPR3, the submission does not adequately demonstrate that the proposed development. In this regard, they reference BRE guidelines and daylight provision. The planning authority's response to the appeal (received on 22/09/2021) notes the submission of the new Daylight, Sunlight and Overshadowing Assessment, which now assesses the impact on buildings within the neighbouring site to the west under construction. No further comment is made by the planning authority in this regard.

7.13 In the interest of clarity, I highlight to the Board that the permitted development to the north of the site, referred to in the reason for refusal, is a SHD BTR development permitted by An Bord Pleanála (ABP-305940-19). It is referred to as the 'Aldi' site in much of the documentation.

7.14 As stated above, an updated 'Daylight, Sunlight and Overshadowing Assessment' was submitted with the appeal documentation. The information contained therein generally appears reasonable and robust and I am using this document as the basis for my assessment. It has been prepared in accordance with BS 8206-2: 2008 'Lighting for Buildings – Part 2: Code of Practice for Daylight' and the BRE BR209 'Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice', 2<sup>nd</sup> Edition 2011. The Design Standards for New Apartments- Guidelines for Planning Authorities were also considered as part of the study. I have considered the report submitted by the applicant and have had regard to BS 8206-2:2008 (British Standard Light for Buildings- Code of practice for daylighting) and BRE 209 – Site Layout Planning for Daylight and Sunlight: A guide to Good Practice (2011). The latter document is referenced in the section 28 Ministerial Guidelines on Urban Development and Building Heights 2018. While I note and acknowledge the publication of the updated British Standard (BS EN 17037:2018 'Daylight in Buildings'), which replaced the 2008 BS in May 2019 (in the UK), I am satisfied that

this document/UK updated guidance does not have a material bearing on the outcome of the assessment and that the more relevant guidance documents remain those referenced in the Urban Development and Building Heights Guidelines. I have carried out an inspection of the site and its environs.

- 7.15 I note that in the interim, permission has been granted on the site to the north for 190 BTR apartments in 2 no. blocks ranging in height up to 15 storeys (former Siemens site)(ABP-311722-21). This is a Strategic Housing Development that was permitted in March 2022, subsequent to the decision of the planning authority in this current appeal. This permitted is not yet constructed. This permitted development is not referenced in the updated 'Daylight, Sunlight and Overshadowing Assessment' as it was not permitted at the time. I have examined the documentation associated with that permitted development. I note that windows on the southern elevation of this building, as permitted, as generally secondary windows to living/kitchen areas with the main window being on an alternative elevation.

#### Daylight

- 7.16 In relation to daylight, paragraph 2.2.7 of the BRE Guidance (Site Layout Planning for Daylight and Sunlight - 2011) notes that, for existing windows, if the VSC is greater than 27% then enough skylight should still be reaching the window of the existing building. Any reduction below this would be kept to a minimum. BRE Guidelines recommend that neighbouring properties should retain a VSC (this assesses the level of skylight received) of at least 27%, or where it is less, to not be reduced by more than 0.8 times the former value (i.e. 20% of the baseline figure). This is to ensure that there is no perceptible reduction in daylight levels and that electric lighting will be needed more of the time. VSC was calculated with the proposed development in place using a simulation model and was calculated for all main windows of surrounding dwellings which face the site, including the ALDI site. For windows identified as having a VSC below 27% or less than 0.8 times the value before, the balconies of the adjacent development are likely to be the main factor for relative loss of light. VSC was calculated without the balconies of the adjacent development, with the proposed development in place and almost all points analysed were found to be compliant with BRE guidance in this regard. I am of the opinion that any impacts on nearby properties are, on balance acceptable, having regard the minimal impacts on the windows of these identified properties, to the existing open

nature of the site and the need to deliver wider planning aims, including the delivery of appropriate development and the regeneration of an underutilised urban site.

### Sunlight

7.17 The impact on sunlight to neighbouring windows is generally assessed by way of assessing the effect of the development on Annual Probable Sunlight Hours (APSH) and Winter Probable Sunlight Hours (WPSH). The BRE Guidelines suggest that windows with an orientation within 90 degrees of due south should be assessed. Again the main living room windows which face the proposed development have been assessed. The results demonstrate that the majority of windows achieve target sunlight values. Generally, where targets are not achieved it is at the lower levels where typically there is a lower expectation of sunlight. I note that such ground floor windows are anticipated to be worst case scenario ground floor windows, which face the proposed development. It is reasonable to state that the loss of sunlight affects only a small number of windows. In relation to the conclusions of the report, as it relates to sunlight, I am satisfied that impacts of the development on sunlight levels to surrounding property will be minor, and are on balance, acceptable.

### Overshadowing

7.18 In relation to overshadowing, BRE guidelines state that an acceptable condition is where external amenity areas retain a minimum of 2 hours of sunlight over 50% of the area on the 21<sup>st</sup> March. The amenity spaces of the adjacent Aldi site were assessed in this regard. All gardens retain at least 2 hours of sunlight over at least 50% of the area on the 21<sup>st</sup> March. As such, I am content that the proposed development would not unduly overshadow surrounding amenity spaces.

7.19 Overall, I acknowledge that the proposed development would not meet BRE targets in all instances, however I do not consider there to be significant impact upon surrounding residents' daylight and sunlight as a result. The level of impact is considered to be acceptable. In my opinion, and based upon the analysis presented, the proposed development does not significantly alter daylight, sunlight or overshadowing impacts from those existing and this is considered acceptable. The proposed development is located on a site identified for development. Having regard to the scale of development permitted or constructed in the wider area and to

planning policy for densification of the urban area, I am of the opinion that the impact is consistent with emerging trends for development in the area and that the impact of the proposed development on existing/permitted buildings in proximity to the application site may be considered to be consistent with an emerging pattern of medium to high density development in the wider area, which is considered reasonable. While there will be some impacts on a small number of windows, on balance, the associated impacts, both individually and cumulatively are considered to be acceptable.

- 7.20 Having regard to the information before me, I am therefore satisfied in this regard and recommend that the Board do not uphold this reason for refusal.
- 7.21 The third reason for refusal which issued from the planning authority stated that the proposed development would endanger public safety by reason of inadequate provision of the ramped access and set down area as vehicles would have to reverse and obstruct the two way traffic in Ballymoss Road in order to drive out of the cul-de-sac towards Carmanhall Road which would give rise to a traffic hazard or obstruction of road users. The proposed development would, therefore, be contrary to the proper planning and development of the area.
- 7.22 The first party appellants refute this reason for refusal and note that a Traffic and Transport Assessment was submitted with application, which examined the operation of the proposed vehicular access arrangements, car parking provision and other traffic/transport matters. They further note that the entry regime to the basement carpark is a one-way circulation route which will not give rise to reversing manoeuvres on the at-grade circulation entry adjacent to Ballymoss Road. A one-way shuttle system will be controlled by a traffic light and barrier will be positioned at the bottom of the ramp to prohibit exiting vehicles enter onto the ramp whilst vehicles are entering. Accordingly, there is no requirement for vehicles to reverse at either top or bottom of ramp.
- 7.23 I note that the Transportation Division of the planning authority did not recommend a refusal of permission in this regard, instead they recommended a request for further information, although they did raise concerns in relation to unwarranted increased accident risk, together with undesirable operational characteristic of the proposed basement car park.

- 7.24 I note that the proposed basement car park ramp will operate as a one-way shuttle system controlled by a traffic light and barrier. The basement car park will also operate as a one-way system, with clockwise movements. Vehicles will not meet on the ramp. In the event of some failure of the traffic light/barrier system, there will be staff on site 24/7 to manage such an extraordinary circumstance. The submitted Traffic Wise report, prepared in response to the appeal is noted and I refer the Board to same. While it acknowledges that within the County Development Plan one-way signal control ramps are generally not acceptable, they are not precluded. The proposed car park has a total of 37 car spaces and an assessment of parking accumulation was undertaken (see Table 6.2 of TrafficWise report). It is anticipated that the one-way entry regime will not give rise to reversing manoeuvres on at-grade circulation space.
- 7.25 I note the length of the ramp and the visibility provided, if the traffic light/barrier system were to fail. I also note that there is a substantial circulation area to the front of the building, any cars waiting to enter the basement will be stopped within the circulation area and not on Ballymoss Road. Having regard to all of the above, I am, satisfied with this element of the proposal and I have no information before me to believe that if permitted, the proposed development would result in the creation of traffic hazard or obstruction of road users. I recommend that any matters relating to traffic and transport could be adequately dealt with by means of condition, if the Board were disposed towards a grant of permission. I recommend that this reason for refusal be omitted.
- 7.26 The fourth reason for refusal which issued from the planning authority stated that the site of the proposed development has been identified in Section 3.5 (Design Principles and Character Areas) as Site 3 in the Sandyford Urban Framework Plan for which clear guidelines are specified. Having regard to the design and layout of the proposed development, the height- which is 50% higher than the maximum permitted under the Sandyford Urban Framework Plan- the failure to acknowledge an objective on the adjoining site for a building of notable design to be provided, the proposed development fails to comply with Policy UD1 Urban Design Principles of the Dún Laoghaire-Rathdown County Council Development Plan 2016-2022 and with the Council's Building Height Strategy as contained in Appendix 9 of the County

Development Plan. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

7.27 I again highlight to the Board that a new Development Plan has been adopted since the decision of the planning authority issued in this case. The Building Height strategy is now contained in Appendix 5 while the Sandyford Urban Framework Plan is contained within Appendix 16.

7.28 I note section 3.5 of the Sandyford Urban Framework Plan, in particular that the subject site is located within an area identified as 'Site 3: Sites at the North end of Ballymoss Road'. The Plan states that the following principles have been identified as follows:

- Have building lines sculpted to provide a civic plaza and an entrance to the estate.
- On the site adjacent to Rockbrook site – provide a building form, which would serve as a visual reference or orientation marker within the estate.
- Provide ground floor uses, which would animate and provide extended life to the plaza.
- Be modelled to minimise impact upon neighbours and step with the sloping land.

7.29 In this regard, I note the report of the planning authority Architect, which states that the proposed civic space does not reach this far up Ballymoss Road, so the subject application will have no impact on the space. In terms of the designation of the site to the north with as a 'building to be of notable design', I note the argument put forward by the appellants in this regard, namely that the proposal will provide a reasonable context to such a building at this location. They further state that no drawing information is publically available as to what is proposed on this site and therefore the unknown scale and height of this building of notable design should not be a material consideration in the determining of this application. I would agree with the opinion of the appellant in this instance. However I highlight to the Board that in the interim, permission has been granted on the site to the north for 190 BTR apartments in 2 no. blocks ranging in height up to 15 storeys (former Siemens site)(ABP-311722-21). This is a Strategic Housing Development that was permitted

in March 2022, subsequent to the decision of the planning authority in this current appeal. I have examined that SHD development.

- 7.30 Having regard to the height, design, layout and setbacks of the proposed development, relative to that permitted to the north on the site of earmarked for a 'building of notable design', I am of the opinion that the development the subject of this current appeal, would not impact negatively on the visual or residential amenity of that adjoining to the north, to such an extent as to warrant a refusal of permission. Given the height permitted on the site to the north and west, I consider that the height and design solution proposed would form an appropriate transition in this instance and the proposal would not detract from the designation of notable building on the site to the north. In term of ground floor uses proposed, I am satisfied in this regard and consider that the proposed uses would aid in enlivening this area. I am satisfied that the design solution put forward would minimise impact on neighbours and is cognisant of the site characteristics.
- 7.31 In terms of building height, I note the reason for refusal stated that the proposal is 50% higher than the maximum permitted under the Sandyford Urban Framework Plan. I note the wording of the previous Sandyford Urban Framework Plan was different to that contained within the current Sandyford Urban Framework Plan, which was adopted March 2022. The current Sandyford Urban Framework Plan indicates that there is a building height limit of 6 storeys for this subject site (as shown in Map 3). I note section 3.2 of the Sandyford Urban Framework Plan, in particular Policy SUFP 3 Building Height in Sandyford Business District (as contained in section 3.2.1), which states that 'It is Council Policy that building height in Sandyford Business District accords with the height limits indicated on Building Height Map 3, subject to policy objectives BHS1 and BHS2 of the Dún Laoghaire Rathdown County Development Plan 2022-2028 (consistent with NP0 35 of the NPF, SPPR 3 of the 'Urban Development and Building Height; Guidelines for Planning Authorities' (2018))'. I acknowledge that the height of the proposed building does not accord with the height limit as set out in Map 3. However, this is not the full picture and as per Policy SUFP 3, one must also note policy objectives BHS1 and BHS2 of operative County Development Plan in this regard.
- 7.32 Policy Objective BHS1 states that it is a policy objective to support the consideration of increased heights and also consider taller buildings where appropriate in certain



areas which include within the Sandyford Urban Framework Plan area and in suitable areas well served by public transport links. The proximity of the LUAS line to the site is noted (within the cited 10 min walk band of the LUAS), provided that proposals ensure a balance between the reasonable protection of existing amenities and environmental sensitivities, protection of residential amenity and the established character of the area. Policy Objective BSH1 continues by stating that having regard to the Building Height Guidelines and more specifically in order to apply SPPR 3, there may be instances where an argument can be made for increased height and/or taller buildings in the areas mentioned above. In those instances, any such proposals must be assessed in accordance with the performance based criteria set out in table 5.1. In terms of Policy Objective BHS2, it relates to building height in areas covered by an approved LAP or UFP (which must form part of the County Plan). In this instance, the site is located within the area covered by the Sandyford UFP and this UFP forms part of the County Plan (Appendix 16). Policy Objective BHS 2 reiterates the point made in Policy objective BHS1 above, in terms of instances where an argument can be made for increased heights and/or taller buildings, assessed against the performance criteria set out in table 5.1. Having regard to these Policy Objectives, notwithstanding the building height limit of 6 storeys for this site as set out in Map 3, I am of the opinion that flexibility is allowable under Policy SUFP 3 for increased heights, provided the proposal is assessed in accordance with and complies with the performance based criteria set out in Table 5.1.

- 7.33 In terms of Table 5.1, I refer the Board to section 5 of the Building Height Strategy (as contained in Appendix 5 of the operative CDP) and note that criteria for all such proposals are to be assessed at County Level, at District/Neighbourhood/Street Level, at site/building scale, in addition to County Specific Criteria. I have examined the proposal in the context of the criteria contained in Table 5.1 and I note the following:

Table 3:

County Level
<ul style="list-style-type: none"> <li>• Proposal assists in securing objectives of the NPF , in terms of focusing development in key urban centres, fulfilling targets in relation to brownfield, infill development and delivering compact growth</li> <li>• Site is well served by public transport</li> <li>• Proposal would successfully integrate into/enhance the character and public realm of the area</li> <li>• Proposal would not adversely affect the skyline- height of nearby buildings noted</li> <li>• Given the limited scale of development proposed (124 suites in an aparthotel development), I have no information before me to believe that the infrastructural carrying capacity of the area could not accommodate the proposed development</li> </ul>
At District/Neighbourhood/Street Level
<ul style="list-style-type: none"> <li>• Proposal responds well to its overall environment and would make a positive contribution to the urban neighbourhood/streetscape of the area</li> <li>• Proposal puts forward a good design response- it is not monolithic nor does it have long, uninterrupted walls of building</li> <li>• High quality, well considered materials proposed- this matter could be adequately dealt with by means of condition</li> <li>• Proposal would enhance the overall urban design context. Presently the site adds little to the streetscape</li> <li>• Proposal would make a positive contribution to legibility of the area; good public realm is proposed; would make an appropriate level of enclosure of streets/spaces</li> <li>• Proposal would positively add to the mix of uses within the area; would allow meaningful contact between the development and the street and</li> </ul>

would make a positive contribution to the character and identity of the area.

The uses proposed at ground floor level are noted

- Proposal would respect the form of buildings and landscape around the site's edges and the amenity enjoyed by neighbouring properties. This has been demonstrated in the submitted documentation

#### At site/building scale

- Proposed design maximises access to natural daylight, ventilation and views and minimise overshadowing. The proposal has been examined in the context of BRE guidelines and I am satisfied in this regard (see relevant section above)
- Proposal ensures no significant adverse impact on adjoining properties by way of overlooking overbearing and/or overshadowing. Any impacts are considered to be in line with what one would expect within such an urban area
- The site is not located within an ACA and is not proximate to any Protected Structures
- Proposed plot ratio is in accordance with the provisions of Sandyford Urban Framework Plan (Map 2)

#### County Specific Criteria

- Proposal is not located along coastal corridor nor the mountain foothills; it is located within an existing urban area where similar heights scale have been permitted. I do not anticipate there to be impacts on birds, bats, air navigation or telecommunication channels, as a result of the proposed development
- Environmental assessment has been undertaken within this report and I am satisfied in this regard

7.34 I have assessed the proposal in the context of the performance criteria set out in Table 5.1 and am of the opinion that the proposal substantially meets this criteria. I am satisfied that a height such as that proposed is appropriate at this location and is

allowable under the current policy objectives of the Sandyford Urban Framework Plan and the Building Height Strategy, as set out in the operative County Development Plan. I also consider the proposal to be in compliance with Government guidelines in this regard. I note the permitted heights within the immediate vicinity, including that recently permitted on the adjoining site to the north, which extends up to 15 storeys. I note proximity to existing public transport and the fact that this is a brownfield site that is currently underutilised. The proposed height would not detract from the visual or residential amenities of the area and would make a positive addition to the streetscape at this location. I am satisfied in this regard and recommend that reason No. 4 of the decision to refuse permission, which issued from the planning authority, be omitted.

#### Other Matters

- 7.35 I consider that other matters raised by the planning authority in relation to drainage, landscaping, public lighting and waste management could be adequately dealt with by means of condition, if the Board is disposed towards a grant of permission.

#### Conclusion

- 7.36 I note that a new Development Plan has been adopted since the decision of the planning authority issued. I note the changes contained therein in relation to definition of aparthotel and the zoning matrix; together with other changes including the building height strategy. Having regard to all of the above, I am satisfied that the proposal is generally consistent with the provisions of the operative County Development and associated Sandyford Urban Framework Plan; would be an appropriate use and level of development for this underutilised site having particular regard to the other permissions in the wider area; would not detract from the visual or residential amenities of the area and would not lead to the creation of traffic hazard or obstruction of road users. I consider the proposal to be consistent with the proper planning and sustainable development of the area.

## **8 Recommendation**

- 8.1 I recommend that permission is GRANTED, subject to the following conditions

## 9 Reasons and Considerations

Having regard to the provisions of the Dún Laoghaire-Rathdown County Development Plan 2022-2028 and to the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable form of commercial development in this urban location, would not seriously injure the residential or visual amenities of the area, would be acceptable in terms of urban design, height and quantum of development and would be acceptable in terms of pedestrian and traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by An Bord Pleanála on the 29th day of June, 2021, 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 out in accordance with the agreed particulars.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>The proposed use of the development is as an aparthotel only. Each stay shall be no longer than a maximum 60-day period. Aparthotel units shall not be used for the purposes of providing student accommodation. Planning permission will be required for the change of use from commercial short-term accommodation to residential use.</p> <p><b>Reason:</b> In the interest of orderly development.</p>
3.	<p>Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing</p>

	<p>with, the planning authority prior to commencement of development.</p> <p><b>Reason:</b> In the interest of visual amenity.</p>
4.	<p>The internal road network serving the proposed development, including set down areas, footpaths and kerbs and the underground car park and ramps to same shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in DMURS. Details of signage in relation to cycle parking and safe access to same should also be submitted for agreement with the planning authority prior to commencement of development. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.</p> <p><b>Reason:</b> In the interest of amenity and of traffic and pedestrian safety</p>
5.	<p>Drainage arrangements including the attenuation and disposal of surface water, shall comply with the detailed requirements of the planning authority for such works and services.</p> <p><b>Reason:</b> In the interest of public health and surface water management</p>
6.	<p>Prior to the commencement of development, the developer shall enter into water and waste-water connection agreement(s) with Irish Water.</p> <p><b>Reason:</b> In the interest of public health</p>
7.	<p>Site development and building works shall be carried out only between the hours of 0700 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.</p> <p><b>Reason:</b> In order to safeguard the residential amenities of property in the vicinity</p>
8.	<p>No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.</p>

	<p><b>Reason:</b> To protect the residential amenities of property in the vicinity and the visual amenities of the area.</p>
9.	<p>The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including noise management measures and off-site disposal of construction/demolition waste.</p> <p><b>Reason:</b> In the interests of public safety and residential amenity</p>
10.	<p>A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.</p> <p><b>Reason:</b> To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.</p>
11.	<p>The site shall be landscaped in accordance with the submitted scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The developer shall retain the services of a suitably qualified Landscape Architect throughout the life of the site development works. The approved landscaping scheme shall be implemented fully in the first planting season following completion of the development or each phase of the development and any plant materials that die or are removed within three years of planting shall be replaced in the first planting season thereafter.</p> <p><b>Reason:</b> In the interest of residential and visual amenity.</p>
12.	<p>All service cables associated with the proposed development such as electrical, telecommunications and communal television shall be located</p>

	<p>underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.</p> <p><b>Reason:</b> In the interests of visual and residential amenity</p>
13.	<p>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/installation of lighting. Such lighting shall be provided prior to the making available for occupation of any apartments.</p> <p><b>Reason:</b> In the interests of amenity and public safety.</p>
14.	<p>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.</p> <p><b>Reason:</b> 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.</p>
15.	<p>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</p>



	<p>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.</p> <p><b>Reason:</b> 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.</p>
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I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

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Lorraine Dockery  
Senior Planning Inspector

19<sup>th</sup> June 2023