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|  | **Inspector’s Report** |
| **ABP-310753-21** |
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| **Development** | Alterations to previously permitted SHD development ABP-307092-20 to include internal and external alterations to permitted Blocks C, D & E. |
| **Location** | Lands at Palmerstown Retail Park, Kennelsfort Road Lower, Palmerstown, Dublin 20 |
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| **Planning Authority** | South Dublin County Council |
| **Applicant** | Randelswood Holdings Ltd |
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| **Type of Application** | Section 146B |
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| **Submissions**  **Prescribed Bodies** | 40 no. submissions (Appendix A)  Dublin Airport Authority  Irish Aviation Authority  Transport Infrastructure Ireland |
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| **Inspector** | Karen Hamilton |

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Appendix A- List of Submissions

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1. Introduction
   1. An Bord Pleanála received an application for alterations to a previously permitted development (reference ABP-307092-20 & modified under Ref ABP 309899-21) on the 02nd of July 2021, from Downey Planning on behalf of Randelswood Holdings Ltd. to alter the permission granted for a residential development on lands at Palmerstown Retail Park, Kennelsfort Road Lower, Palmerstown, Dublin 20. The request for alterations is made under Section 146B of the Planning and Development Act, 2000, as amended.
   2. In accordance with Section 146B (2)(a) of the Planning and Development Act 2000 (as amended) and following a review of the submitted details, it was concluded that the alterations to which this request relates, amounted to a significant alteration to the overall development, and it could not be reasonably concluded that the Board would not have considered the relevant planning issues differently to a material extent, and that other planning issues for consideration might also arise. As a result, the alteration was considered to constitute the making of a material alteration of the terms of the development concerned.
   3. Pursuant to subsection (3)(b)(i) notice was subsequently served on the requester to require the submitted information to be placed on public display and submissions sought, prescribed bodies to be issued a copy of the proposal, and additional drawings to be submitted.
   4. Following the receipt of this information (18th of November 2021) and display period, a determination is now required under subsection (3)(b)(ii) of the Act whether to —

(i) make the alteration,

(ii) make an alteration of the terms of the development concerned, being an alteration that would be different from that to which the request relates (but which would not, in the opinion of the Board, represent, overall, a more significant change to the terms of the development than that which would be represented by the latter alteration), or

(iii) refuse to make the alteration.

1. Site Location and Description
   1. The development site (c. 1.2708 ha) is located approximately 6 km to the west of Dublin city centre, at the junction of Kennelsfort Road Lower and the Chapelizod Bypass (R148). The site fronts onto the Chapelizod Bypass and contained a number of commercial units e.g., furniture and car sales units, which have been demolished. Part of the site is known as the former Vincent Byrne Site and is referred as such in the development plan. To the west of the site, is a Circle K petrol filling station and to the northwest are further commercial and light industrial units, including a steel works unit. To the north and east is residential development accessed off the Old Lucan Road and Rose View.
   2. Access to the site is currently via the Kennelsfort Road Lower in close proximity to the junction with the R-148. Palmerstown village itself is typically low rise with buildings generally two storey in height. The main concentration of commercial uses is along Kennelsfort Road where the site is accessed from. The large number of suburban type dwellings are located along the north of the site. Aldi is also accessed off the Old Lucan Road, to the west of the site. There is a turning circle at the western end of the Lucan Road (cul-de-sac). Waterstown Park, which is within an area designated as a Special Amenity Area Order, is located c. 500m north of the development site along the northern boundary of Palmerstown. There is a QBC located along the Chapelizod Bypass, c. 100 metres from the site. This QBC forms part of the BusConnects proposals.
   3. There is a foot bridge immediately adjacent the B & B, on the opposite side of the Kennelsfort Road which provides a crossing route to the other side of the R-148. Bus stops are located along Old Kennelsfort Road and in close proximity to either side of the footbridge along the R-148.
2. Planning History

**SHD ABP 311853-21**

* 1. An application for alterations to the permitted SHD (ABP 3007092-20) are currently before the Board for the following changes:
* Proposed alterations to the previously permitted utilisation of the existing vehicular and pedestrian/cyclist access via Palmerstown Business Park (onto Old Lucan Road) to now limit this access to pedestrian/cyclist access only for Block E residents/visitors;
* Proposed alterations to the previously permitted site layout plan and landscaping proposals to accommodate the provision of a turning head; and,
* Proposed minor alterations to the configuration of the previously permitted access at Kennelsfort Road Lower.

Submission and observations on this S146B also make reference to the alteration proposed under ABP 311853-21.

**SHD ABP 309899-21**

* 1. Permission granted by the Board for alterations to the permitted ABP 3072058-20 to allow an increase in the height of Blocks A & B to allow construction methods and a lift shaft and a minor increase in the footprint of the building to accommodate changes in the internal layout and basement alterations.

**SHD ABP 307092-20**

* 1. Permission granted for the demolition of existing structures, construction of 250 no. Build to Rent apartments and associated site works subject to 23 no. conditions of which the following are of note:

C2- Future connectivity into the commercial lands, as per the submitted masterplan, along the north of the site shall be integrated into the internal road layout.

C3- Compliance with the National Cycle Manual.

C5- Engage/notify Weston and Casement Aerodromes.

C14- No additional works above parapet level.

**SHD ABP 302521-18**

* 1. Permission refused by the Board in December 2018 for a Strategic Housing Development comprising the construction of a residential mixed-use development of 303 no. apartments (26 no. studios, 125 no. 1 beds, 133 no. 2 beds and 19 no. 3 beds) with a crèche facility, a gym, a community/sports hall, a concierge office and a community room in 2 no. blocks. Three reasons for refusal are summarised below:

1. It is considered that the proposed design strategy as it relates to scale, mass and orientation of structures on the site and the surrounding area and the overshadowing and overbearing impact on the existing properties to the northern boundary, particularly numbers 4 and 5 Roseview.
2. The proposed development would be self-contained with a single access and egress point onto Kennelsfort Road Lower. It is considered that the layout of the proposed development provides limited opportunities to facilitate potential future access to the rear gardens of the houses to the north and is premature pending the preparation of a master plan for the subject site and adjoining industrial sites that addresses connectivity and permeability for all road users.
3. The traffic generated and the provision of a single vehicular access/egress point at the junction of Kennelsfort Road Lower and the R-148 regional road, would endanger public safety by reason of traffic hazard from increased traffic movements and would lead to conflict between road users, that is, pedestrians, cyclists and vehicular traffic. The proposal for a pedestrian and cycle route through an existing industrial/commercial area, which appears to be in private ownership, is inappropriate and would militate against the creation of an attractive pedestrian environment.
4. The location of the public and semi-private open space along the frontage of the R-148 regional road, which is heavily trafficked, would compromise the use and enjoyment of this area by future residents. The design, bulk and massing of Block A, a number of the single aspect one bed units within this block would have a poor aspect, with limited penetration of daylight and sunlight.
5. There is inadequate information on the capacity in the existing surface water network to cater for the proposed development. the storm water outflow arising from the development can be limited such that it would be in accordance with the requirements of Greater Dublin Regional Code of Practice for Drainage Work (Volume 2 New Development version 6.0) or that the site, when developed, can be adequately and sustainably drained so as not to result in any significant environmental effects on the quality of the receiving water, the River Liffey, as a result of the potential increased discharges or such as to give rise to a risk of flooding.

There were a number of notes attached to the Boards Direction as follows:

Note 1. Regard is given to the Urban Development and Building Heights Guidelines for Planning Authorities, as this relates to objectives of the South Dublin County Development Plan which set specific limitations on building height on the subject site (and adjoining lands).

**PL.06S.234178 (Reg Ref SD09A/0021)**

* 1. Permission granted for a significant mixed-use development including retail, offices, 102 residential units, 220 bed aparthotel, café/restaurant, library and health centre and on the site. The proposal comprised of 6 buildings ranging in height from 4 to 6 storeys.

Permission extended under reg. ref. SD09A/0021/EP and expired on the 20th of May 2020.

1. Proposed Changes
   1. **Introduction**

The applicant in their submission has elaborated on the proposed alterations and how they differ from the parent permission in terms of height, unit numbers, unit mix, parking and amenity space. Reference is included to both the original permitted scheme ABP-307092-20 and the recent alterations permitted under ABP-309899-21.

Overall, the alterations relate to 3 no. Blocks (C, D & E) and may be summarised as follows:

* The number of units has increased by 24 units, from permitted 250 units to 274 units.
* The change in the mix of units to include an increase of 19 no one bed units (from 103 to 122) and an increase of 5 no 2 bed units (from 74 to 79) with a total of 147 no. 1 beds and 127 no. 2 beds.
* Car parking spaces have increased by 26 no. spaces and bicycle spaces increased by 24 no. spaces and increase basement to accommodate changes.
* Increase in the height of all Blocks (C, D & E) to accommodate an additional floor and lift shaft overrun, AOV and parapet.
* Minor increase in the footprint of all Blocks (C, D & E) to accommodate construction method requirements.
* Residential Amenity area is to remain the same and includes the increase in space permitted under alterations ABP- 309899-21.

I have elaborated further on each aspect of the proposed alterations hereunder, for clarity.

* 1. **Alterations to Previously Permitted Blocks C, D & E**

**Block C** alterations include:

* Additional set back floor (increase from 6 storey to 7 storey).
* Increase in height to accommodate additional floor and construction method requirements including lift shaft overrun (825mm).
* 7 no. additional units (6 no. 1 beds and 1 no. 2 bed).
* Change to the previously permitted mix to include 8 no units (previously 57 no. units and now 55 no. units).

**Block D** alterations include:

* Additional set back floor (increase from 7storey to 8 storey).
* Increase in height to accommodate additional floor and construction method requirements including lift shaft overrun (825mm).
* 5 no. additional units (2no. 1 bed and 3 no. 2 beds).
* Change to previously permitted mix to include 8 no. additional units (previously 67 no units and now 75 no units).

**Block E** alterations include:

* Additional set back floor (increase from 8 storey to 9 storey).
* Increase in height to accommodate additional floor and construction method requirements including lift shaft overrun (825mm).
* 7 no. additional units (6 no. 1 beds and 2 no. 2 beds).
* Change to previously permitted mix to include 8 no. additional units (previously 63 no units to 71 no. units).

1. Public Consultation

**Introduction**

* 1. The Board considered the proposed alterations as material and a Board Direction dated 24th of August 2021 required the applicant to advertise the proposed alteration and include the following additional information:
* A planning report which sets out any changes to the daylight and sunlight on the existing residential properties between the permitted scheme and the proposed alterations.
* A report that sets out how the amended development would comply with the various requirements of the 2018 Guidelines on Design Standards for New Apartments, including its specific planning policy requirements and the quantum of residential amenity space for the entire scheme.
* Additional Computer-Generated Images (CGIs) illustrating the proposed development and the full context of the rear of the properties along Old Lucan Road and Rose View, above eye level.
* Full specification of type and location of all planting proposed.
* Details of all changes to bicycle parking.
* The information which is made available should also include a set of drawings that clearly compares and contrasts the proposed alterations with the development as permitted.
  1. The applicant published a notice (copy dated 18th of November 2021) of the alterations and a site notice was erected specifying the date 23rd of December 2021 for the making of observations/ submissions to the Board. However, it was noticed that no submissions or observations were received by the Board. The Board decided to extend the time period for making submissions/ observations up until 5.30 pm on the 07th of February 2022. A summary of these submissions is included below.

**Planning Authority Submission**

* 1. A submission was received from South Dublin County Council. The main issues highlighted by the Council are summarised below:
* No strategic objections are raised on the material alterations.
* In relation to the change in levels, it is not apparent that plans referred to in the Planning Response Report (2113-LDEZZ-00-DR-SC-5C12-REV2 & 2113-LDE-ZZ-00-DR-SC-5C13-REV-2) have been included.
* The implications for an increase in height will have ramifications for the immediate receiving environment.
* The Board should fully consider the revised TTA, open space requirements and the requirements of the Urban Development and Building Height Guidelines (2018) (S 3.1, 3.2 and SPPR 3).
* The increase in the larger apartments is welcomed although it is noted the 1 bed units are smaller than originally proposed.
* The applicant should consider whether there could be a smaller number of larger units.
* It is not evident what the changes are to the ESB substation.
* The reduction in the amount of green roof space is not welcomed.
* It is requested that increased green infrastructure elements are included if a grant of permission is recommended.
* There are no objections to the increase in size of the basement or the new car parking spaces.

**Prescribed Bodies**

### Dublin Airport Authority (DAA)

The amendments are acknowledged. There is no further comment to make.

### Department of Defence

A submission on the alterations was sent to the Board on the 09th of December 2021. The original submission required the operation of cranes with the Air Corps Air Traffic Services no later than 28 days before use.

### Irish Aviation Authority (IAA)

The proposed alterations are noted. In the event of planning consent being granted, the applicant should be conditioned to contact Weston and Casement Aerodromes to ensure crane operations do not adversely impact the safety of operations.

### Transport Infrastructure Ireland (TII)

The TII has no further comment to make, and the position remains as set out in the letter dated 10th of June 2020.

**Public Submissions**

* 1. 40 no submissions were received from members of the public. The submissions are from residents of dwellings in the vicinity of the site (a planning consultant has submitted one on behalf of a third party), residents association and from Elected Representatives (5 no.) from the local area. One letter of support for the proposal is submitted from a resident within the vicinity of the site. The issues raised in the submissions are summarised below:

### Increase in population (support for proposal).

* The proposed density on the site will utilize the proposed upgrade of the public transport (Bus Connects).
* The additional population is welcome, and it is hoped some of the derelict units will become vacant.
* There is a need for smaller rental properties and an additional floor is an easy win for an increase in housing stock.

### Access and Traffic impacts

* The increase in density will make the access arrangements unviable.
* There are legal issues with the right of way over the access road.
* There is no right to access the road past the existing car sales.
* The National Transport Authority made observations to the original permission and should be addressed. It was submitted that in the absence of the use of the right of way, only one access would remain and the original reason for refusal would remain.
* The proposed access through the site represents a traffic hazard for pedestrian and cyclists.
* The increase for 274 units equates to 2 two-way vehicular trips between 08:00- 09:00 and 101 trips between 16:00- 17:00.
* The applicant’s TTA does not take into account the existing traffic generation from the existing land uses.
* There are serious traffic issues already in the Palmerstown Village.
* There is insufficient traffic provision in the development.
* The traffic assessment is not sufficient to address the traffic movements.

### Original grant of permission

* The concerns raised during the initial application (ABP- 307092-20) are reiterated.
* The modifications proposed would exacerbate problems identified in the original permission (access into the site).
* There are other issues the applicant should address, and the proposal is premature pending the preparation of a masterplan for the surrounding area and adjoining industrial lands.
* The is no legal basis for the development on the site.
* The original reason for refusal is appropriate and the applicants are trying to overcome these issues through the alterations.
* A section of the building collapsed during construction and the structural integrity is questioned.

### ABP 311853-21

* Alterations currently before the Board (ABP 311853-21) are linked to this proposal.
* Both applications should be considered by the Board
* The increase in the height of the apartments and the change to the access should be assessed as one.
* It is intended that this submission also relates to the proposal submitted under ABP 311853-21

### Plans and Particulars

* It is difficult to extract the relevant information from the documentation submitted.
* An oral hearing on the proposed alterations is requested.
* The use of the Irish Daly Star and Irish Daily mail means that less people will see the notice due to the low circulation rate.
* The site notices where not readily available for the public to see.

### Impact on residential amenity

* The proposed amendments will result in a significant and unacceptable impact on the residential amenities.
* The alterations proposed will already have a negative impact on the residential amenity of those existing occupants.
* An increase in height will compound the creation of shadows at the rear of property.
* The balconies will overlook the property.
* The construction activities are already disruptive.
* The reduction in green space will have a negative impact.
* There are not sufficient amenities to support additional population.

### Design and layout

* The location, massing and height are unacceptable.
* The revised apartment blocks are visually dominant, overbearing and obtrusive.
* The site is not suitable for an increase in the building heights.
* The design is monolithic.
* The computer-generated documents do not show the reality of the project.
* The floating roofs will reduce the green roof and there is concern of the possibility of high winds.
* The proposal represents a material contravention of the development plan.

**Impact on visual amenity**

* The additional floor will have a severe impact on the visual amenity.
* The development is currently under construction and the impact of the height is evident.
* The impact of the proposal is reverting back to the original refused scheme.

1. Policy Context
   1. **Project Ireland 2040 - National Planning Framework**
   2. **Section 28 Ministerial Guidelines**

* Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities and the accompanying Urban Design Manual: A Best Practice Guide
* Sustainable Urban Housing, Design Standards for New Apartments, Guidelines for Planning Authorities
* Urban Development and Building Height Guidelines for Planning Authorities
* Design Manual for Urban Roads and Streets
* Guidelines for Planning Authorities and An Bord Pleanála on carrying out Environmental Impact Assessment’,
  1. **Regional Spatial and Economic Strategy for the Eastern and Midland Region 2019-2031**
  2. **South Dublin County Development Plan 2016-2022**

The site is zoned as VC-Village Centre where it is an objective “*To protect, improve and provide for the future development of Village Centres”.*

* Residential is permitted in principle.
* The VC zoning is to support the protection and conservation of the special character of traditional village and provide for enhanced retail and retail services, tourism, residential, commercial, cultural and other uses that are appropriate to the village context.

Site Specific local Objective:

UC6 SLO 1- *To preserve the character of Palmerstown Village by limiting any future development on the former Vincent Byrne site to three storey in height, and two storey where it backs or sides onto adjoining two storey housing.’*

development to the east of the M50 and south of the River Dodder”.

Heights

Housing (H) Policy 7 Urban Design in Residential Developments.

H7 Objective 4 states: “*that any future development of both residential and/or commercial developments in Palmerstown Village and the greater Palmerstown Area shall not be higher than or in excess of three stories in height.”*

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| **UC6 Objective 1:** *“To encourage varied building heights in town, district, village, local and regeneration areas to support compact urban form, sense of place, urban legibility and visual diversity while maintaining a general restriction on the development of tall buildings adjacent to two-storey housing”.* |

**UC6 Objective 2:** *“To ensure that higher buildings in established areas take account of and respect the surrounding context.”*

Settlement Hierarchy

* Table 1.1 of the CDP sets out the settlement hierarchy for South Dublin.
* Palmerstown is identified as an area for “consolidation within the gateway”.
* The plan sets out that there is no significant road, water supply or drainage constraints. Proposed high-capacity transport projects would increase capacity of zoned lands.
* Table 1.10- Housing capacity is 9,620 for areas in the “consolidation areas within the Gateway”, 2016-2022

Core Strategy

Core Strategy Policy 1 Consolidation Areas within the Gateway sets out that “it is the policy of the Council to promote the consolidation and sustainable intensification of

HCL Policy 14 Liffey Valley Special Amenity Order (SAA0)

The Liffey Valley Special Amenity Area Order 1990 (SAAO) and proposed Natural Heritage Area associated with the Liffey Valley are located to the north of the site.

**Village Centre**

Urban Centres (UC) Policy 3 Village Centres

*“It is the policy of the Council to strengthen the traditional villages of the County by improving the public realm, sustainable transport linkages, commercial viability and promoting tourism and heritage value.”*

**UC3 Objective 2:** *“To promote design standards and densities in traditional village centres, that are informed by the surrounding village and historic context and enhance the specific characteristics of each town or village in terms of design, scale and external finishes.”*

**Infill- UC3 Objective 4:** *“To continue to improve the environment and public realm of village centres in terms of environmental quality, urban design, safety, identity and image.”*

**UC3 Objective 7:** *“To reinforce village centres as a priority location for new mixed-use development and to promote and support new development that consolidates the existing urban character with quality of design, integration and linkage as important considerations.”*

Roads

Table 6.5 - Six Year Road Programme

* Kennelsfort Toad and the R148- Upgrade existing junction- Provision of grade separated junction to enhance the efficiency of the junction, particularly for buses on the N4/Lucan Road QBC and ensure safe crossing facilities are provided for all users.

Table 6.6- Medium to Long term Road Objectives

* Junction 8- M50- Re-establishment of the J8 Junction -To promote development of enterprise lands at Clondalkin (and Park West) and to alleviate traffic congestion within Clondalkin and Palmerstown Villages.

TM Policy 7- Car parking. Management of Public Parking

* Pay and display parking and inclusion of residential permit systems in Palmerstown will prioritise on-street parking for residents and reduce traffic to these areas.

Cycling

Table 6.4- Six-year cycle network programme

* Liffey Valley Greenway- Green Route- Lucan to Palmerstown
* S6- Primary Route- Lucan to Palmerstown via N4
* 7a- Primary Route- Lucan to Palmerstown via Liffey Valley

1. Applicants Submission
   1. The application is also accompanied by*, inter alia*, the following documents:

* Planning Report,
* Architecture- Urban Design Statement,
* Eye Level Photomontages,
* Updated Housing Quality Assessment (HQA),
* Potential Daylight and Sunlight Impact of Proposed Alterations,
* Traffic and Transport Assessment,
* Mobility Management Plan,
* Stage 1/ 2 Flood risk Assessment Report,
* Landscape Report,
* Environmental Impact Screening Report,

1. Assessment

**Planning History and Current S146B Application.**

* 1. Permission was granted for a Strategic Housing Development (SHD) for 250 BTR apartment units (ABP 307092-20) the parent permission. This S146B application relates to proposed alterations to this parent permission and a subsequent permission for alterations (ABP 309899-21). Alterations permitted under ABP 309899-21 relate to an increase in the height of Blocks A & B to allow construction methods and a lift shaft and a minor increase in the footprint of the building to accommodate changes in the internal layout and basement alterations.
  2. An application for alterations to the permitted SHD (ABP 311853-21) are currently before the Board for the following changes:
* Proposed alterations to the previously permitted utilisation of the existing vehicular and pedestrian/cyclist access via Palmerstown Business Park (onto Old Lucan Road) to now limit this access to pedestrian/cyclist access only for Block E residents/visitors;
* Proposed alterations to the previously permitted site layout plan and landscaping proposals to accommodate the provision of a turning head; and,
* Proposed minor alterations to the configuration of the previously permitted access at Kennelsfort Road Lower.
  1. The Board considered the alterations to Blocks C, D & E material. The applicant was requested to advertise the proposed alterations and invite submissions from the public. A large number of submissions were received following an extension of time from the Board and a submission from the Planning Authority (PA) was received.
  2. A large number of submissions to this application refer to the alterations also proposed under ABP 311853-21, in particular the amendment to the pedestrian and cycle access. These issues are addressed separately within the assessment for ABP 311853-21.
  3. The Board will note that the following assessment has regard to both the original permitted scheme (ABP 307092-20) and those permitted alterations (ABP 309899-21) (alterations to Block A & B). The alterations applied for now under this proposal in most part relate to Blocks C, D & E.

**Alterations to Site Levels and Increase in Height of Blocks C, D & E.**

* 1. The Architectural- Urban Design Statement includes a breakdown of the height changes. Each apartment block (C, D & E) will have an extra floor and additional height to accommodate the lift shaft overrun, AOV and parapet. Overall, each of the blocks (C, D & E) will increase in height by c. 6m although having regard to the site level changes proposed the alterations to the Finished Floor Levels (FFL) of each of the Blocks will be + c.6.2m for C, +c.6.8m for D and + c.6.8m for E.
  2. Objective H7 and UC6 SLO1 of the South Dublin County Development Plan 2016 -2022, restricts heights to 3 storeys. The Board, in its assessment of the original permission ABP-307092-20 undertook a material contravention of the development plan and had regard to Criteria 3.2 of the Urban Development and Building Heights Guidelines for Planning Authorities and the photomontages submitted.
  3. An updated **verified views/ photomontage** was included in the initial submission to the Board which included ten views for the photomontages. It was considered the views from Rose View estate were not fully represented in the photomontages. The applicant was requested to place the alterations on public display along with the following:
* Additional Computer-Generated Images (CGIs) illustrating the proposed development and the full context of the rear of the properties along Old Lucan Road and Rose View, above eye level.
  1. The amended CGIs are referred to in the applicant’s documentation as Eye Level Photo-Montage Views & Aerial Photo-Montage Views and include a further 4 views (14 in total). I have some serious concerns in relation to the submitted photomontages. In this first instance the additional request specifically required the CGIs to fully reflect the proposed development and the context to the rear of the properties along Old Lucan Road and Rose View, above eye level. The Board will note that the new views included in the amended photomontages (submitted on 18th of November 2021) in particular View 13 and View 14, are not reflective of the impact from the rear of properties nor do they fully illustrate the alterations in height to Block C, D & E. I note the illustrations mainly include Blocks A & B which are not the subject of this proposed alteration and also do not include the alterations recently permitted to these blocks (lift shift etc at roof level). I consider the absence of the tallest building (Block E) from the photomontages prevents a comprehensive analysis of the visual impact of the proposed alterations, the impact on the adjoining residential amenity and the impact on the receiving environment. In addition, in the absence of this information, I have concerns that the visual impact would have been assessed differently should the Board have considered the proposal as an application in the first instance.
  2. The additional photomontage images presented in View 11 and View 12 illustrate the proposed alterations to the heights of Block C & D (in additional to blocks A & B). As stated above, I have concerns in relation to the impact of all three blocks (including Block E) can not be fully assessed. Whilst I note the location of the site along the Chapelizod Bypass can allow for higher buildings I have concerns in relation to the absence of essential information does not allow for sufficient assessment of the implications of the additional height. This information is necessary in order to compliance with criteria in Section 3.2 of the Urban Development and Building Heights. As stated before, the Board undertook a material contravention of the development plan in relation to height. This material contravention is also raised within the third-party submissions. The Board will note the planning authority submission did not consider the increased height was appropriate having regard to the receiving environment and requested that the Board consider the requirements of those SPPRs in the Urban Development and Building Heights.
  3. An **updated Daylight Sunlight Internal Light Analysis Report** accompanied the amendments. The analysis uses the BRE guidance document and the BS 8026-2 2008 to assess the sunlight and daylight. All the rooms in the ground, first and second floors of Block C, D & E were assessed, and all can meet the minimum Annual Daylight Factor (ADF) standards for habitable rooms (2% for kitchens and living rooms, 1.5% for living rooms and 1% for bedrooms). In relation to the impact on the adjoining residential amenity, rest point locations on Rose View 4a & 5a are chosen as those which may be impacted. All the windows assessed will have no perceivable reduction in Vertical Sky Component (VSC) as the minimum criteria can be met (the existing VSC is in excess of 27%). One of the dining/ kitchen windows in 5a Rose View will not meet the Annual Probable Sunlight Hours (APSH) in the winter. This APSH assessment was not included in the original daylight and sunlight impact assessment.
  4. In relation to the **updated Daylight Sunlight Internal Light Analysis Report** accompanied the amendments, it was considered that the difference between the permitted scheme (ABP 307092-20) and the proposed alterations (increase in the height of Block C, D & E) was not fully reflected in the shadow cast drawings. In particular any increase in overshadowing from the increased height could not be assessed. In this regard, the Board determined that additional information should be submitted and presented with the public consultation documents. The information requested was as follows:
* A planning report which sets out any changes to the daylight and sunlight on the existing residential properties between the permitted scheme and the proposed alterations.
  1. I note Figures 20, 30 and 33 include an element of overshadowing on the properties along the north f the site. The submitted documentation refers to the as “existing & proposed shadow diagrams”. As stated above, there is no distinguishment between the permitted scheme and the proposed alterations. In this regard, and the absence of the overshadowing from the permitted scheme (ABP 307092-20) I cannot conclude that the proposal would not exacerbate any overshadowing impact onto adjoining properties.

**Elevational Changes**

* 1. Design alterations to each of the blocks includes additional floors for the penthouses with overhanging balconies on the external private amenity space. A new material (bronze aluminium cladding) is included for the new floor. The lift shaft overrun, AOV and parapet also alters the overall appearance of the 3 no blocks. Minor alterations to the elevations on Blocks C, D and E are proposed to accommodate the changes to the internal layouts and apartment mix.
  2. The main alterations relate to the additional floor with the introduction of a new design element. The applicant’s Architectural- Urban Design Statement provides an overview of the design concept and considers the new scheme is fully compliant with the principles of the Universal Design and the 12 criteria of the Urban Design Manual.
  3. A number of submissions received raised concern with the overhang element on the upper floor of blocks C, D & E. Third party concerns relate to the general design and layout, the proposed overhang and the removal of part of the roof as a SuDS feature. The PA submission does not refer to the alteration in design features specifically.
  4. As stated above, I have concerns in relation to the absence of relevant visual assessments for Blocks C, D & E. The amended documentation submitted to the Board does not clearly illustrate the impact from the rear of the existing properties, nor does it include any of the modified alterations permitted under ABP 309899-21 in relation to Blocks A & B. In this regard, the cumulative impact of all the elevational changes cannot be adequately assessed. This aside, I note the design alterations on the additional floor, in particular the overhang feature, introduces a new design feature which was not previously assessed, and I consider it is a significant alteration. I consider the introduction of this feature would alter the simplistic design of Blocks C, D & E into a complicated design. I do not consider these additions would be a positive addition to the character of the blocks and are therefore not acceptable.

**Proposed Alterations to Previously Permitted Landscaping Proposals &** **Alterations to the ESB Sub-station**

* 1. Condition No. 11 of the permitted development ABP 307092-20 requires the open space area to be landscaped in accordance with the scheme submitted and the design of the children’s play areas to be submitted for the written approval of the PA and designed in accordance with relevant standards. Alterations permitted to the landscape scheme under ABP 309899-21 were minor in nature and mostly relating to the integration of vents for the basement parking area.
  2. The applicant states that landscaping alterations to the overall scheme are included to accommodate the increase in footprint of Blocks C, D & E. The details included are, *inter alia*:
* New bike parking shelters.
* List of trees species and examples of ornamental planting.
* Examples of paving materials.
* Details for the 2 no children’s play area (proposed equipment, ground finishes etc);
* Boundary treatments.
  1. The Landscape report notes these details and further elaborates on four general planting areas with a green boundary fringe, Communal open space, public open space and roof gardens. Additional information on the specification of type and location of all planting proposed. One roof garden masterplan for Block A accompanied the landscaping documents.
  2. The ESB substation is located along the north of the site, beside the boundary wall and proposed turning head, in the general location previously permitted. The original substation consisted of a standard ESB kiosk 2.2m in height and c. 4 m2. The proposed substation is 2.7m in height with a brick finish and c. 31m2. The PA submission notes these alterations proposed although does not consider the alterations to the ESB substation are evident. I note detailed drawings of the ESB sub station have been included. The ESB substation will remain in the same location as permitted although is now substantially larger. I consider the use of brick finish and location beside the boundary wall will reduce any negative impact of the alterations to the substation.
  3. Overall, I do not consider the submission of details relating to landscaping are considered significant and should the PA request additional information in relation to the landscaping, this can reasonably be addressed within the confines of Condition No. 11 of the permitted SHD ABP 307092-20.

**Alterations to the layout, and Change to Unit Mix**

* 1. The applicant states in the submitted documentation that the number of units has increased from permitted 250 units to 274 units.
  2. The unit mix permitted for Block C, D & E includes 103 one bed units and 74 two bed units. The units mix proposed includes 122 one bed units and 79 two bed units. The “Planning Report” notes compliance with SPPR 1-8 of the *Sustainable Urban Housing: Design Standards for New Apartments’*. SPPR 8 removes any restriction on dwelling mix. Two additional units in Block C at 6th floor Level are proposed for Part V compliance. The PA submission welcomed the increase in the larger apartments although noted the one bed units where smaller than originally proposed. The applicant states that the proposal complies with SPPR1 of the apartment guideline (one bedroom units can make up 50% of the overall mix).
  3. The majority of these additional units are accommodated in the addition floors in Blocks C, D & E. Having regard to construction methods the applicant has applied for an increase in the floorspace of each block, where the footprint of C and D is increased by 15m2 and the footprint of Block D by 18m2. Overall, corridors are reduced in size to 1250mm, smoke shafts included, balconies made deeper to accommodate upstand beam increase and additional insulation included. The applicant submits all alterations are design in accordance with the development plan standards and ‘*Sustainable Urban Housing: Design Standards for New Apartments’* Guidelines.
  4. Overall, I do not consider the alterations to the layout or change to the unt mix would have any significant impact on the proposed development as permitted in the initial application ABP-307092-20 and amended in ABP-309899-21.

**Car Parking and Bicycle Parking and Basement Alterations.**

* 1. An increase in 26 no. car parking spaces (from 125 no. spaces to 151 no. spaces) and an increase of 24 no. cycle parking spaces.
  2. The application is accompanied by a Traffic and Transport Assessment which includes an assessment of the incremental impact of the additional 24 no units proposed and concludes there is no adverse impact on the road network. No alterations are proposed to the vehicular, pedestrian or cycle accesses into or throughout the site.
  3. In relation to the cycle parking spaces, the initial application ABP-307092-20 includes 276 no. spaces. No alterations to this quantum of cycle spaces were proposed in the alterations in ABP-309899-21. The proposed amendments include an additional 24 no. space. The Traffic and Transport Assessment notes 290 cycle parking spaces provided which is 10 no. cycle parking spaces less than the supporting documentation states. The applicant submits the cycle parking provision is in excess of the development plan requirements for 84 spaces.
  4. Alterations to the basement are permitted under ABP 309899-21 and include alterations to the size and layout of the basement. An increase in the size of the basement, under Block E is included for additional parking spaces. In general, I do not consider the amended to the parking or bicycle layout are of a significance to have a negative impact on the receiving environment.

**Mobility Management Plan**

* 1. Condition No 16 required the submission of a Mobility Management Strategy to be submitted to and agreed by the planning authority. Where applicable compliance with the DMURS Interim Advice Note – Covid Pandemic Response (May, 2020) was required.
  2. A Mobility Management Plan is submitted and includes an assessment of the characteristics of the proposed development, an analysis of the travel patterns and targets for modal shifts. Mobility Management measures integrated into the scheme include appointing a Mobility Management Coordinator (MMC) a welcome package for new tenants, new website and promotion of sustainable forms of travel.
  3. Third party submissions have referenced the alterations to the vehicular access and the impact on the traffic movements in the vicinity. As discussed above, alterations to the entrance are included within a separate S146 B application (ABP 311853-21) which I have dealt with accordingly within the relevant assessment for that application.

**Residential Amenity Facilities**

* 1. In terms of residential amenity provided to comply with SSPR 7 of the “*Sustainable urban Housing: Design Standards for New Apartments”*, the applicant sets out in the planning report that the increase in residential amenity proposed under the alterations for (change in plant and gym in the basement of Block A for use as residential amenity).
  2. The applicant notes there was 9 no units permitted in the original permission with no private amenity space (6 of which are in Block D). The proposed additional setback on Block D includes 1 additional unit without private amenity space. The applicant refers to the apartment guidelines in relation to resident amenity facilities and alterations permitted under ABP-309899-21.
  3. The quantum of total residential amenity facilities for the overall BTR scheme was not included within the original S146B application and the applicant was requested to undertake:
* A report that sets out how the amended development would comply with the various requirements of the Guidelines on Design Standards for New Apartments, including its specific planning policy requirements and the quantum of residential amenity space for the entire scheme.
  1. The Planning Report which accompanied the additional information refers to a Qualitive Assessment Report. As stated before, this report reiterates the location of the communal/ residential amenities within Block A (as permitted under ABP-309899-21). No detailed analysis of the compliance with SPPR 7 has been provided and there is no distinguishment between communal amenity areas and the proposed residential services and amenities. Having regard to the proposed increase of 24 units I would be concerned that there was insufficient services and amenities to support the increased population.
  2. Therefore, having regard to the absence of sufficient information to assess the provision of residential amenities and services, I am of the opinion that the increase of units cannot be adequately accommodated within the site.

**Alteration to Basement and Site Levels**

* 1. The applicant states that alterations to the finished floor levels of the buildings is necessary to accommodate minor revisions to the proposed invert levels of the sewers, manholes and chambers serving the permitted scheme. No changes to the sewer designs are proposed.
  2. An updated Stage 1/ 2 Flood Risk Assessment Report accompanied the alterations and concluded that although the residential use would be classified as highly vulnerable the likelihood of flooding would be extremely low and the site is in Flood Zone C. The PA submission did not raise any concerns in relation to the alteration of the basement.

1. Environmental Impact Assessment (EIA)
   1. 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 than 500 dwelling units,
  1. Urban development which would involve an area greater than 2 ha in the case of a business district, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere. (In this paragraph, “business district” means a district within a city or town in which the predominant land use is retail or commercial use.)
  2. The proposed development is for 250 no apartment units (increased to 274 with these proposed alterations), on a site area of c. 1.2708ha. An Environmental Impact Assessment (EIA) Screening Report was submitted with the original application (ABP-307092-20) which concluded that an Environmental Impact Assessment Report was not necessary. The proposed development was considered to be sub-threshold in terms of EIA having regard to Schedule 5, Part 2, 10(b) (i) and (iv) of the Planning and Development Regulations 2001 (as amended). The applicant submitted an Ecological Impact Assessment Report, with these proposed alterations, including the information set out in Schedule 7A of the Planning and Development Regulations, 2001 (as amended) to allow a screening for EIA in accordance with the criteria in Schedule 7 regarding the:

1. Characteristics of Proposed Development
2. Location of Proposed Development
3. Types and Characteristics of Potential Impacts
   1. An EIA Screening report was also submitted with the proposed amendments under ABP-309899-21 which concluded that having regard to the nature, scale and location of the proposed development, by itself or in combination with other plans and projects, is not likely to have significant effects on the environment, it was considered that an EIA was not required. I note the Inspector’s Report and the Board’s Direction on both the original application and the amendments, that the proposed development would not be likely to have significant potential effects on the environment. I have undertaken a screening assessment of the proposed development (Appendix B).
   2. The total combined units included in both the original permitted development (ABP 307092-20) and those subsequent amendments (ABP 309899-21) remains under the requirement for a mandatory EIA. The nature and the size of the proposed development is well below the applicable thresholds for EIA. The development would not give rise to significant use of natural recourses, production of waste, pollution, nuisance, or a risk of accidents. The development is served by municipal drainage and water supply. The site is not subject to a nature conservation designation and does not contain habitats or species of conservation significance. The AA Screening set out below concludes that the potential for adverse impacts on European sites can be excluded at the screening stage. The various reports submitted with the application address a variety of environmental issues and assess the impact of the proposed development, in addition to cumulative impacts with regard to other permitted development in proximity to the site, and demonstrate that, subject to the various construction and design related mitigation measures recommended, the proposed development will not have a significant impact on the environment.
   3. I have had regard to the characteristics of the site, location of the proposed development, and types and characteristics of potential impacts. I have examined the sub criteria having regard to the Schedule 7A information and all other submissions, and I have considered all information which accompanied the application including inter alia:

* Landscape plan and Photomontages/CGI
* Transport Assessment,
* Engineering Services Report, and Engineering drawings
* Sunlight Daylight and Shadow Analysis
* Appropriate Assessment Screening Report
* Planning Statement
  1. I have completed an EIA screening assessment as set out in Appendix B of this report. I consider that the location of the proposed development and the environmental sensitivity of the geographical area would not justify a conclusion that it would be likely to have significant effects on the environment.
  2. Noting the requirements of Section 299B (1)(b)(ii)(II)(C), whereby the applicant is required to provide to the Board a statement indicating how the available results of other relevant assessments of the effects on the environment carried out pursuant to European Union legislation other than the Environmental Impact Assessment Directive have been taken into account, I would note that the following assessments / reports have been submitted in the course of the making of the application:
* An AA Screening Report in support of the Habitats Directive (92/43/EEC) and the Birds Directive (2009/147/EC) has been submitted with the application, which also address requirements arising from the Water Framework Directive and the Urban Wastewater Treatment Directive.
* A Flood Risk Assessment that addresses the potential for flooding having regard to the OPW CFRAMS study which was undertaken in response to the EU Floods Directive.
* A Preliminary Construction and Demolition Waste Management Plan has been submitted which was undertaken having regard to the EC Waste Directive Regulations 2011 and has relied on standards derived under or related to the EU Environmental Noise Directive, as well as air quality monitoring and standards derived from the EU Ambient Air Quality Directive.
  1. Overall, I am satisfied that the proposed development would not have a significant effect on the environment. In addition, I am satisfied that the information required under Section 299B(1)(b)(ii)(II) of the Planning and Development Regulations 2001 (as amended) have been submitted. It is my opinion that a screening determination should be issued confirming that there is no requirement for an EIAR based on the above considerations.

1. Appropriate Assessment

**Introduction**

* 1. An Appropriate Assessment Screening Report was submitted with the application under ABP-307092-20 (as modified under ABP -309899-21), and it was concluded that that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on:
* Rye Water Valley/Carton SAC (site code 001398),
* Glenmasmole River Valley SAC (site code 001209),
* South Dublin Bay and River Tolka Estuary SAC (site code 000210),
* South Dublin Bay and River Tolka Estuary SPA (site code 004024),
* North Bull Island SPA (site code 004006),
* North Dublin Bay SAC (site code 000206),
* Wicklow Mountains SPA (site code 004040),
* Wicklow Mountains SAC (site code 002122),

or any other European site, in view of the sites conservation objectives (as listed below), and a Stage 2 Appropriate Assessment was not therefore required. In view of the sites’ conservation objectives. The Board was satisfied that the proposed development would not adversely affect the integrity of European sites in view of the sites’ conversation objectives.

* 1. A revised screening report accompanied the proposed amendments under ABP-310753-20 which concluded that given the nature of the proposed alterations they will not, either individually or cumulatively in combination with the other identified plan or projects, adversely effect the integrity of any European Site.

**Screening for Appropriate Assessment Test of likely significant effects**

* 1. The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development is likely to have significant effects on a European site(s).
  2. The proposed development is examined in relation to any possible interaction with European sites designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European Site.

**Brief Description of the Development**

* 1. The original permission (ABP-307092-20) permitted included 250 no. BTR units. Additional alterations were permitted for minor alterations under ABP-309899-21. The site was previously used as commercial and is considered a brownfield site. The surface water treatment includes an attenuation storage tank and has been designed to comply with the guidelines of the Greater Dublin Sustainable Drainage Systems (GDSDS). Discharge of surface waters into the public system are controlled and filtered through drains to prevent any water pollution. The treatment of surface water is in compliance with standard construction methods and not intended as a measure to mitigate against direct or indirect impacts on any European Site . The foul effluent will be pumped into the public sewerage system via a proposed rising main.
  2. There are no European sites located within or in close proximity to the site. The Submitted Screening Report listed 10 no. sites within a 15km radius of the site as detailed below.

Natura 2000 sites with potential connectivity

|  |  |
| --- | --- |
| **Natura 2000 Code** | **Qualifying Interests** |
| Rye Water Valley/Carton SAC  (001398)  7.9km west of the site | 7220 Petrifying springs with tufa formation (Cratoneurion)\*  \* denotes a priority habitat  1014 Narrow-mouthed Whorl Snail  Vertigo angustior  1016 Desmoulin's Whorl Snail  Vertigo moulinsiana |
| Glenmasmole River Valley SAC  (001209)  10km south of site | 6210 Semi-natural dry grasslands and scrubland facies on calcareous substrates (Festuco-Brometalia) (\* important orchid sites)  6410 Molinia meadows on calcareous, peaty or clayey-silt-laden soils (Molinion caeruleae)  7220 Petrifying springs with tufa formation (Cratoneurion)\* |
| South Dublin Bay and River Tolka Estuary SAC  (000210)  11.1km east of site | Mudflats and sandflats not covered by seawater at low tide [1140]  Annual vegetation of drift lines [1210]  Salicornia and other annuals colonising mud and sand [1310]  Embryonic shifting dunes [2110] |
| South Dublin Bay and River Tolka Estuary SPA  (004024)  9.7km east of site | Light-bellied Brent Goose (Branta bernicla hrota) [A046]  Oystercatcher (Haematopus ostralegus) [A130]  Ringed Plover (Charadrius hiaticula) [A137]  Grey Plover (Pluvialis squatarola) [A141]  Knot (Calidris canutus) [A143]  Sanderling (Calidris alba) [A144]  Dunlin (Calidris alpina) [A149]  Bar-tailed Godwit (Limosa lapponica) [A157]  Redshank (Tringa totanus) [A162]  Black-headed Gull (Chroicocephalus ridibundus) [A179]  Roseate Tern (Sterna dougallii) [A192]  Common Tern (Sterna hirundo) [A193]  Arctic Tern (Sterna paradisaea) [A194]  Wetland and Waterbirds [A999] |
| North Bull Island SPA  (004006)  13km east of site | Light-bellied Brent Goose (Branta bernicla hrota) [A046]  Shelduck (Tadorna tadorna) [A048]  Teal (Anas crecca) [A052]  Pintail (Anas acuta) [A054]  Shoveler (Anas clypeata) [A056]  Oystercatcher (Haematopus ostralegus) [A130]  Golden Plover (Pluvialis apricaria) [A140]  Grey Plover (Pluvialis squatarola) [A141]  Knot (Calidris canutus) [A143]  Sanderling (Calidris alba) [A144]  Dunlin (Calidris alpina) [A149]  Black-tailed Godwit (Limosa limosa) [A156]  Bar-tailed Godwit (Limosa lapponica) [A157]  Curlew (Numenius arquata) [A160]  Redshank (Tringa totanus) [A162]  Turnstone (Arenaria interpres) [A169]  Black-headed Gull (Chroicocephalus ridibundus) [A179]  Wetland and Waterbirds [A999] |
| North Dublin Bay SAC  (000206)  13km east of site | Mudflats and sandflats not covered by seawater at low tide [1140]  Annual vegetation of drift lines [1210]  Salicornia and other annuals colonising mud and sand [1310]  Atlantic salt meadows (Glauco-Puccinellietalia maritimae) [1330]  Mediterranean salt meadows (Juncetalia maritimi) [1410]  Embryonic shifting dunes [2110]  Shifting dunes along the shoreline with Ammophila arenaria (white dunes) [2120]  Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]  Humid dune slacks [2190]  Petalophyllum ralfsii (Petalwort) [1395] |
| Wicklow Mountains SPA  (004040)  14.3km south of site | Merlin (Falco columbarius) [A098]  Peregrine (Falco peregrinus) [A103] |
| Wicklow Mountains SAC  (002122)  14.3km south of site | Oligotrophic waters containing very few minerals of sandy plains (Littorelletalia uniflorae) [3110]  Natural dystrophic lakes and ponds [3160]  Northern Atlantic wet heaths with Erica tetralix [4010]  European dry heaths [4030]  Alpine and Boreal heaths [4060]  Calaminarian grasslands of the Violetalia calaminariae [6130]  Species-rich Nardus grasslands, on siliceous substrates in mountain areas (and submountain areas, in Continental Europe) [6230]  Blanket bogs (\* if active bog) [7130]  Siliceous scree of the montane to snow levels (Androsacetalia alpinae and Galeopsietalia ladani) [8110]  Calcareous rocky slopes with chasmophytic vegetation [8210]  Siliceous rocky slopes with chasmophytic vegetation [8220]  Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]  Lutra lutra (Otter) [1355] |

* 1. With regard to direct impacts, the application site is not located adjacent or within a European site and there are no watercourses on the site or habitats linked to European sites, therefore there is no risk of habitat loss, fragmentation or any other direct impacts.
  2. With regards indirect impact, I note the Inspector’s report on the initial application (ABP 307092-20) made reference to the location of the site and the foul water entering the public system which eventually discharges into the River Liffey, which leads to the Dublin Bay. It was considered that having regard to the suburban nature, design of measures and the distance of the site from the Bay, the connection would not result in any significant negative impact on the water quality of the Dublin Bay, nor is there any potential for a negative impact on the conservation objectives of the following Natura 2000 sites:
* South Dublin Bay and River Tolka Estuary SPA (004024),
* South Dublin Bay and River Tolka Estuary SAC (00210),
* South Dublin Bay SAC (000210),
* North Bull Island SPA (004006),
* North Dublin Bay SAC (00206).
  1. A revised screening report accompanied the proposed amendments permitted (ABP 309899-21). In addition, a revised screening report accompanied these proposed amendments which concluded that given the nature of the proposed alterations they will not, either individually or cumulatively in combination with the other identified plan or projects, adversely effect the integrity of any European Site
  2. It is my opinion, that these proposed alterations, which include in the most part an additional 24 no. residential units, additional carparking, having regard to the information presented in both this application and the previous applications that no source-pathway-receptor exists, and proposed alterations would not adversely affect the integrity of any European sites in view of the sites’ conversation objectives.

**Screening Determination**

* 1. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment of the project, it is concluded that project individually or in combination with other plans or projects would not be likely to give rise to significant effects on European Sites, Rye Water Valley/Carton SAC (site code 001398), Glenmasmole River Valley SAC (site code 001209), South Dublin Bay and River Tolka Estuary SAC (site code 000210), South Dublin Bay and River Tolka Estuary SPA (site code 004024), North Bull Island SPA (site code 004006), North Dublin Bay SAC (site code 000206), Wicklow Mountains SPA (site code 004040), Wicklow Mountains SAC (site code 002122), and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.
  2. This determination is based on the following:
* The nature and scale of the proposed development on fully serviced lands,
* To the intervening land uses and distance from European Sites, and
* Lack of direct connections with regard to the source-pathway-receptor model.

1. Conclusion
   1. Having regard to the increased height of Blocks C, D & E, which includes an additional floor for each of the blocks, the location of the blocks to the south of existing residential properties and the absence of sufficient information in relation to the visual impact and the additional overshadowing, it is my opinion that the proposed alterations constitute a material alteration of the proposed development and is of a scale which is significant would have required the Board to assess differently should they have been submitted with the proposed development the first instance. In this regard, I do not consider the applicant has sufficiently addressed the concerns raised by the Board under Section 146B (2)(a) of the Planning and Development Act 2000 (as amended), whereas, following a review of additional submitted details, the applicant has failed to demonstrate the proposed alterations are appropriate at this location. It is my opinion that the Board should refuse to alter the terms of the proposed development.
2. Recommendation.
   1. Having regard to the above assessment, I recommend that in accordance with subsection (3)(b)(iii) of section 146B of the Act 2000 (as amended) the Board – (iii) refuse to make the alteration, for the reasons and considerations set out below.
   2. **Reasons and Considerations**

Having regard to the following:

1. the policies and objectives of the South Dublin County Development Plan 2016-2022,
2. the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas and the accompanying Urban Design Manual Best Practice Guide,
3. the Sustainable Urban Housing: Design Standards for New Apartments,
4. the Urban Development and Building Heights, Guidelines for Planning Authorities,
5. the nature and scale of the Strategic Housing Development permitted under ABP- 307092-20 and modified under ABP 309899-21,
6. the absence of sufficient documentation and information to adequately assess the proposed alterations, in particular, the impact of the overshadowing on adjoining properties and the visual impact of the additional floor, increase in height and external design modifications,
7. the potential impact on the residential amenities of those occupants of the dwellings in the vicinity of the site,

It is considered that the amended works in this request would be likely to have an effect on the proper planning and sustainable development of the area that differs in a significant way from the likely effects of the development as previously approved. Therefore, the alteration of the terms of the approved development, would constitute a material alteration and should not be permitted under Section 146 B of the Act 2000 (as amended).

1. Recommended Draft Board Order

REQUEST received by An Bord Pleanála on the 02nd of July 2021 from Downey Planning on behalf of Randelswood Holdings Ltd. under section 146B of the Planning and Development Act, 2000, as amended, to alter the terms of the Strategic Housing Development at Palmerstown Retail Park, Kennelsfort Road Lower, Palmerstown, Dublin 20, which is the subject of a permission under An Bord Pleanála reference number ABP-307092-20 and modified under ABP 309899-21.

**WHEREAS** the Board made a decision to grant permission, subject to conditions, for the above-mentioned development,

**AND WHEREAS** the Board has received a request to alter the terms of the development, which is the subject of the permission,

**AND WHEREAS** the proposed alteration is described as follows:

* The number of units has increased by 24 units, from permitted 250 units to 274 units.
* The change in the mix of units to include an increase of 19 no one bed units (from 103 to 122) and an increase of 5 no 2 bed units (from 74 to 79) with a total of 147 no. 1 beds and 127 no. 2 beds.
* Car parking spaces have increased by 26 no. spaces and bicycle spaces increased by 24 no. spaces and increase basement to accommodate changes.
* Increase in the height of all Blocks (C, D & E) to accommodate an additional floor and lift shaft overrun, AOV and parapet.
* Minor increase in the footprint of all Blocks (C, D & E) to accommodate construction method requirements.

**AND WHEREAS** the Board decided, in accordance with section 146B(2)(b) of the Planning and Development Act 2000, as amended, invited submissions or observations from the public in relation to whether the proposed alteration would constitute the making of a material alteration to the terms of the development concerned,

**AND WHEREAS** the Board decided, in accordance with section 146B(2)(a) of the Planning and Development Act 2000, as amended, that the proposed alteration would result in a material alteration to the terms of the development, the subject of the permission,

**AND WHEREAS** having considered all of the documents on file and the Inspector’s report, the Board considered that the making of the proposed alteration would not be likely to have significant effects on the environment or on any European Site,

**NOW THEREFORE** in accordance with section 146B(3)(a) of the Planning and Development Act, 2000, as amended, the Board hereby refuses to alter the above-mentioned alteration having regard to the submitted plans and particulars.

**REASONS AND CONSIDERATIONS**

Having regard to:

1. the policies and objectives of the South Dublin County Development Plan 2016-2022,
2. the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas and the accompanying Urban Design Manual Best Practice Guide,
3. the Sustainable Urban Housing: Design Standards for New Apartments,
4. the Urban Development and Building Heights, Guidelines for Planning Authorities,
5. the nature and scale of the Strategic Housing Development permitted under ABP- 307092-20 and modified under ABP 309899-21,
6. the absence of sufficient documentation and information to sufficiently assess the proposed alterations, in particular, the impact of the overshadowing on adjoining properties and the visual impact of the additional floor, increase in height and external design modifications,
7. the potential impact on the residential amenities of those occupants of the dwellings in the vicinity of the site,

it is considered that the proposed alterations would be material and are not considered acceptable alterations. In accordance with section 146B(3)(a) of the Planning & Development Act, as amended, the Board hereby refuses to make the said alterations.

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| * 1. Karen Hamilton Senior Planning Inspector  06th of June 2022 |

**Appendix A- List of Submissions**

1. Aidan Connolly and Nessa Skehan
2. Aisling Curley
3. Alan Hayes
4. Annette O Connor
5. Biggerstaff Services Ltd
6. Ciara Fleming
7. Com O Brien
8. Daniel Kennedy Steel Supplies
9. Eanna Burke
10. Eugene and Adele Hutchinson
11. Gerard Lavin
12. Geardine Ford
13. Grainne Ni Mhuiri
14. Gus O Connell and others
15. Helen Nalty
16. Hermitage Park Residents Association
17. Jessie Walsh
18. Joe Harrington
19. Josephine Kelly and Paul Lynch
20. Liam Maguire
21. Marie Leonard
22. Marion Reid
23. Martin Mc Carthy
24. Michael and Norita Kennedy
25. Michael Leonard
26. Muireann Leonard
27. Noel and Sinead Devitt
28. Palmerstown RPM Company (Brook Mc Clure)
29. Patrica Leonard
30. Peter Grogan and Mary Mullany
31. Peter Mc Connell
32. Residents Association
33. Riversdale, Riverview, Old Lucan Road Resident’s Group
34. Shane and Claire King
35. Shane Moynihan
36. Susan Lockwood
37. Teresa and James Dunphy
38. The Worker’s Party
39. Thomas and Bernie Noonan
40. Willie Carney

**Appendix B: EIA Screening Determination Form**

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| **EIA - Screening Determination for Strategic Housing Development Applications** | | | | | | | | | | | | | |
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| **A. CASE DETAILS** | | | | | | | | | | | | | |  |
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| **An Bord Pleanála Case Reference** | | | | |  | ABP-310752-21 | | | | | | | |  |
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| **Development Summary** | | | | |  | Alterations to previously permitted SHD development ABP-307092-20 to include internal and external alterations to permitted Blocks C, D & E | | | | | | | |  |
|  |
|  | | | | | **Yes / No / N/A** |  | | | | | | | |  |
| **1. Has an AA screening report or NIS been submitted?** | | | | | **Yes** | An EIA Screening Report and a Stage 1 AA Screening Report and NIS was submitted with the application | | | | | | | |  |
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| **2. Is a IED/ IPC or Waste Licence (or review of licence) required from the EPA? If YES has the EPA commented on the need for an EIAR?** | | | | | **No** |  | | | | | | | |  |
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| **3. Have any other relevant assessments of the effects on the environment which have a significant bearing on the project been carried out pursuant to other relevant Directives – for exampleSEA** | | | | | **Yes** | SEA undertaken in respect of the South Dublin County Development Plan 2016-2022 | | | | | | | |  |
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| **B. EXAMINATION** | | | | | **Yes/ No/ Uncertain** | **Briefly describe the nature and extent and Mitigation Measures (where relevant)** | | | | | **Is this likely to result in significant effects on the environment?** | | |  |
| **(having regard to the probability, magnitude (including population size affected), complexity, duration, frequency, intensity, and reversibility of impact)** | | | | | **Yes/ No/ Uncertain** | | |  |
| **Mitigation measures –Where relevant specify features or measures proposed by the applicant to avoid or prevent a significant effect.** | | | | |  | | |  |
| **1. Characteristics of proposed development (including demolition, construction, operation, or decommissioning)** | | | | | | | | | | | | | |  |
| **1.1 Is the project significantly different in character or scale to the existing surrounding or environment?** | | | | | **No** | The development comprises the construction of residential units on lands zoned residential in keeping with the residential development in the vicinity. | | | | | No | | |  |
| **1.2 Will construction, operation, decommissioning or demolition works cause physical changes to the locality (topography, land use, waterbodies)?** | | | | | **Yes** | The proposal includes construction of apartments which is not considered to be out of character with the pattern of development in the surrounding town. | | | | | No | | |  |
| **1.3 Will construction or operation of the project use natural resources such as land, soil, water, materials/minerals or energy, especially resources which are non-renewable or in short supply?** | | | | | **Yes** | Construction materials will be typical of such urban development. The loss of natural resources or local biodiversity as a result of the development of the site are not regarded as significant in nature. | | | | | No | | |  |
| **1.4 Will the project involve the use, storage, transport, handling or production of substance which would be harmful to human health or the environment?** | | | | | **Yes** | Construction activities will require the use of potentially harmful materials, such as fuels and other such substances. Such use will be typical of construction sites. Any impacts would be local and temporary in nature and implementation of a Construction and Environmental Management Plan will satisfactorily mitigate potential impacts. No operational impacts in this regard are anticipated. | | | | | No | | |  |
| **1.5 Will the project produce solid waste, release pollutants or any hazardous / toxic / noxious substances?** | | | | | **Yes** | Construction activities will require the use of potentially harmful materials, such as fuels and other such substances and give rise to waste for disposal. Such use will be typical of construction sites. Noise and dust emissions during construction are likely. Such construction impacts would be local and temporary in nature and implementation of a Construction Environmental Management Plan will satisfactorily mitigate potential impacts.   Operational waste will be managed via a Waste Management Plan to obviate potential environmental impacts. Other significant operational impacts are not anticipated. | | | | | No | | |  |
| **1.6 Will the project lead to risks of contamination of land or water from releases of pollutants onto the ground or into surface waters, groundwater, coastal waters or the sea?** | | | | | **No** | No significant risk identified. Operation of a Construction Environmental Management Plan will satisfactorily mitigate emissions from spillages during construction. There is no direct connection from the site to waters. The operational development will connect to mains services. Surface water drainage will be separate to foul services. | | | | | No | | |  |
| **1.7 Will the project cause noise and vibration or release of light, heat, energy or electromagnetic radiation?** | | | | | **Yes** | Potential for construction activity to give rise to noise and vibration emissions. Such emissions will be localised, short term in nature and their impacts may be suitably mitigated by the operation of a Construction Environmental Management Plan.  Management of the scheme in accordance with an agreed Management Plan will mitigate potential operational impacts. | | | | | **No** | | |  |
| **1.8 Will there be any risks to human health, for example due to water contamination or air pollution?** | | | | | **No** | Construction activity is likely to give rise to dust emissions. Such construction impacts would be temporary and localised in nature and the application of a Construction, Environmental Management Plan would satisfactorily address potential impacts on human health.  No significant operational impacts are anticipated. | | | | | **No** | | |  |
| **1.9 Will there be any risk of major accidents that could affect human health or the environment?** | | | | | **No** | No significant risk having regard to the nature and scale of development. Any risk arising from construction will be localised and temporary in nature. The site is not at risk of flooding.  There are no Seveso / COMAH sites in the vicinity of this location. | | | | | **No** | | |  |
| **1.10 Will the project affect the social environment (population, employment)** | | | | | **Yes** | Redevelopment of this site as proposed will result in an increase in 250 (additional 24) which is considered commensurate with the development of a Dublin City. | | | | | **No** | | |  |
| **1.11 Is the project part of a wider large scale change that could result in cumulative effects on the environment?** | | | | | **No** | Stand alone development, with minor developments in the immediately surrounding area. | | | | | No | | |  |
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| 2. Location of proposed development | | | | | | | | | | | | | |  |
| **2.1 Is the proposed development located on, in, adjoining or have the potential to impact on any of the following:** | | | | | **No** | No conservation sites located on the site. An AA Screening Assessment and NIS accompanied the application which concluded no significant adverse impact on any European Sites. | | | | | No | | |  |
|  | **1. European site (SAC/ SPA/ pSAC/ pSPA)** | | | |  |
|  | **2. NHA/ pNHA** | | | |  |
|  | **3. Designated Nature Reserve** | | | |  |
|  | **4. Designated refuge for flora or fauna** | | | |  |
|  | **5. Place, site or feature of ecological interest, the preservation/conservation/ protection of which is an objective of a development plan/ LAP/ draft plan or variation of a plan** | | | |  |
| **2.2 Could any protected, important or sensitive species of flora or fauna which use areas on or around the site, for example: for breeding, nesting, foraging, resting, over-wintering, or migration, be affected by the project?** | | | | | **No** | No such uses on the site and no impacts on such species are anticipated. | | | | | No | | |  |
| **2.3 Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?** | | | | | **No** | No features of landscape, historic, archaeological or cultural importance could be affected.  A protected structure is located outside the site and it has been established that there will be no significant adverse impact on the character and setting. | | | | | No | | |  |
| **2.4 Are there any areas on/around the location which contain important, high quality or scarce resources which could be affected by the project, for example: forestry, agriculture, water/coastal, fisheries, minerals?** | | | | | **No** | There are no areas in the immediate vicinity which contain important resources. | | | | | No | | |  |
| **2.5 Are there any water resources including surface waters, for example: rivers, lakes/ponds, coastal or groundwaters which could be affected by the project, particularly in terms of their volume and flood risk?** | | | | | **No** | There are no connections to watercourses in the area. The development will implement SUDS measures to control surface water run-off. The site is not at risk of flooding. | | | | |  | | |  |
| **2.6 Is the location susceptible to subsidence, landslides or erosion?** | | | | | **No** | There is no evidence in the submitted documentation that the lands are susceptible to lands slides or erosion and the topography of the area is flat. | | | | | No | | |  |
| **2.7 Are there any key transport routes(eg National Primary Roads) on or around the location which are susceptible to congestion or which cause environmental problems, which could be affected by the project?** | | | | | **No** | The site is served by a local urban road network. | | | | | No | | |  |
| **2.8 Are there existing sensitive land uses or community facilities (such as hospitals, schools etc) which could be affected by the project?** | | | | | **Yes** | There is no existing sensitive land uses or substantial community uses which could be affected by the project. | | | | | No | | |  |
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| **3. Any other factors that should be considered which could lead to environmental impacts** | | | | | | | | | | | | | |  |
| **3.1 Cumulative Effects: Could this project together with existing and/or approved development result in cumulative effects during the construction/ operation phase?** | | | | | **No** | No developments have been identified in the vicinity which would give rise to significant cumulative environmental effects. | | | | | **No** | | |  |
| **3.2 Transboundary Effects: Is the project likely to lead to transboundary effects?** | | | | | **No** | No trans boundary considerations arise | | | | | **No** | | |  |
| **3.3 Are there any other relevant considerations?** | | | | | **No** |  | | | | | **No** |  |  |  |
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| C. CONCLUSION | | | | | | | | | | | | | |  |
| **No real likelihood of significant effects on the environment.** | | | | | **Yes** | EIAR Not Required | | | | |  | | |  |
| **Real likelihood of significant effects on the environment.** | | | | | **No** |  | | | | |  | | |  |

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| D. MAIN REASONS AND CONSIDERATIONS | | | | | | | | | | | | | |  |
| Having regard to: -   (a) the nature and scale of the proposed development, which is below the threshold in respect of Class 10(iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended, (b) the location of the site on lands zoned to protect and provide for residential uses in the South Dublin County Development Plan 2016-2022, and the results of the Strategic Environmental Assessment of the plan;  (c) The existing use on the site and pattern of development in surrounding area; (d) The availability of mains water and wastewater services to serve the proposed development, (e) the location of the development outside of any sensitive location specified in article 299(C)(1)(v) of the Planning and Development Regulations 2001 (as amended) (e) The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003),  (f) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended), and (g) The features and measures proposed by applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the proposed Outline Construction & Demolition Waste Management Plan.  It is considered that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an environmental impact assessment report would not therefore be required. | | | | | | | | | | | | | |  |
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| **Inspector: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Karen Hamilton Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_30th of May 2022** | | | | | | | | | | | | | | |
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