



An  
Bord  
Pleanála

## Inspector's Report

### ABP-310849-21

#### Development

Works to Bayview House (Protected Structure), demolition of Bayview Cottage, construction of 58 apartments with associated site works.

#### Location

Bayview House & Bayview Cottage,  
Cromwell's Lane, St. Mary's Villas,  
Lagavooren, Drogheda, Co Louth.

#### Planning Authority

Louth County Council

#### Planning Authority Reg. Ref.

201086

#### Applicant(s)

Urban Life Developments Limited.

#### Type of Application

Permission.

#### Planning Authority Decision

Grant Permission

#### Type of Appeal

First & Third Party

#### Appellant(s)

Urban Life Developments Limited.

Daniel and Charlene Gerrard and  
John Coogan

Kevin and Eimear Tiernan

Fenton Howell and Jacqueline Crinion

**Observer(s)**

None.

**Date of Site Inspection**

2<sup>nd</sup> of December 2021.

**Inspector**

Stephanie Farrington

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## **1.0 Site Location and Description**

- 1.1. The appeal site is located to the south-east of Drogheda town centre along the Dublin Road and opposite Drogheda Train Station. The site which has a stated area of 0.6345 ha, is triangular in shape and is bounded by Cromwell's Lane to the south and east. The northern portion of the site adjoins Dublin Road. The existing site survey drawing (Drawing no. 2008-PA-002) illustrates that the topography of the site slopes from southwest (35.044m OD) towards the northeast corner of the site (26.504m).
- 1.2. The site is currently occupied by Bayview House, a protected structure, located in close proximity to the southern boundary of the site and a former coach house building in the southeast corner. Bayview Cottage, a dormer bungalow and associated outbuildings is located on site south-west corner of the site fronting onto Cromwell's Lane. The remainder of the site is overgrown. The boundaries to the north and east abutting Bayview House are substantially vegetated and overgrown with shrubs. There are a number of mature trees on site and the majority of the site is subject to a Tree Preservation Order.
- 1.3. The southern and eastern site boundaries along Cromwell's Lane are defined by a stone wall which is c.2m to 2.5m in height. Access to the site is currently provided via an existing Cromwell's Lane. Cromwell's Lane is a cul-de-sac lane which rises steeply from the Dublin Road directly opposite the railway station. It runs east-west from the Dublin Road, terminating at St. Mary's Cottages.
- 1.4. The character of the immediate surrounding area is predominantly residential, comprising two-storey detached and semi-detached dwellings. The western boundary of the site adjoins the gardens of existing residential properties at St Mary's Villas.

## **2.0 Proposed Development**

- 2.1. The proposed development comprises of the following:
  - Demolition of Bayview Cottage.
  - Conversion of Bayview House to 2 no. apartments.

- Extension and conversion of existing coach house to 2 no. apartments.
- Construction of a part 4 and part 5 storey apartment building accommodating 54 no. apartments.
- Removal of Trees protected by a Tree Preservation Order (Ref TPO-01).
- New vehicular access to the site from Cromwell's Lane.

2.2. Changes to the development were proposed as part of the applicant's response to Louth County Council's request for further information including alterations to the site boundary and size (reduced from 0.6365 to 0.6345), car parking layout and landscaping plan.

2.3. Table 1 below provides a summary of the key site statistics.

<b>Table 1: Key Figures</b>	
<b>Site Area</b>	0.6345 ha
<b>No. of Residential Units</b>	58 apartments
<b>Apartment Unit Mix</b>	21 no. 1 bed units 34 no. 2 bed units 3 no. 3 bed units
<b>Density</b>	91 units per ha
<b>Height</b>	Bayview House - 2 storey Proposed Apartment Block - 4 to 5 storey
<b>Site Coverage/ Plot Ratio</b>	27% / 0.8
<b>Public Open Space</b>	1,130 sq.m.
<b>Communal Open Space</b>	410 sq.m.
<b>Car Parking</b>	30 spaces
<b>Bicycle Parking</b>	2 per unit

## 3.0 Planning Authority Decision

### 3.1. Decision

Louth County Council issued a notification of decision to grant permission for the development subject to 38 no. conditions. The following conditions are of note.

- Condition no. 2: Revised plans shall be submitted illustrating provision of bulky storage for each apartment at ground floor level.
- Condition no. 3: A complete survey of Bayview House shall be completed and submitted to the planning authority for written agreement prior to the commencement of development.
- Condition 23: Section 47 agreement restricting all residential units to first occupation to individual purchasers.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

##### Initial Planner's Report (10<sup>th</sup> of February 2021)

The initial planner's report recommends a request for further information. The following provides a summary of the main issues raised:

- The site is a zoned, serviced site in an urban location. The site is a brownfield site which is prioritised in the core phasing strategy. The development would be consistent with objectives of the NPF. The principle of the proposal is therefore accepted.
- The new apartment building will have a significant impact on the setting of Bayview House given its proximity and scale. However, the proposal does harmonise with the existing protected structure on site in terms of position, design and materials. The design of the building is contemporary and very simple in form and design features.

- The conversion of the dwelling and coach house on site ensures a holistic approach to the development and is welcomed. The internal layout of the house lends itself to conversion to apartments.
- The proposed conversion of Bayview House is sensitive to the retention of the existing layout of the property. Further clarity is required in relation to the proposed works to the coach house.
- Density at 92 units per ha is above the recommended 50 units per ha for urban locations. The density is considered acceptable having regard to the location of the site within the existing urban fabric and proximity to Drogheda town centre and train station.
- The proposal does not impinge on protected views and prospects as set out within the Drogheda Borough Council Development Plan and can be successfully absorbed into the character and views of this part of town.
- The site is an appropriate location for the density and height proposed subject to achievement of qualitative standards of residential amenity.
- A number of submissions raise concerns relating to overlooking and overshadowing. Minimum separation distances of 22m is achieved between face to face windows at first floor level which will protect the amenities of adjacent properties. The Sunlight, Daylight and Overshadowing Study prepared by IES minimal overshadowing of adjacent properties.
- The proposal meets with the majority of the SPPR's as set out within the 2020 Design Standards for New Apartments.

The report recommends a request for further information in relation to the following:

- Compliance with the Standards set out within the Design Standards for New Apartments in relation to bulky storage, storage space within the apartments, dimension of kitchen area of apartment 53 and private amenity space for apartment unit 54.
- Clarification relating to specific works proposed to the protected structures on site at Bayview House and the coach house.
- Bat survey of Bayview Cottage and vegetation/structure within its curtilage.

- Revised landscaped plan which includes measures to enhance biodiversity
- Clarification on boundary treatments
- Clarifications on Part V
- Further details on Building Life Cycle Report
- Clarification in relation to points raised within a submission on file relation to impact on adjoining landholding
- Infrastructure requirements.

Planners Report (23<sup>rd</sup> of June 2021)

A summary of the applicant's response to the FI request is provided.

- The submitted Specification of Works submitted by Slattery Architects have provided some clarity. However, in many aspects the level of intervention regarding specific works to be carried out are not sufficiently detailed. A further detailed survey of Bayview house is required. A pre – commencement condition is proposed.
- The removal of the stone wall to provide for a footpath and access arrangements is considered acceptable.
- The additional bat survey and revised landscaping plan are considered acceptable.
- Access /Transportation and Infrastructural issues are satisfactorily addressed. Cross reference is made to the recommended condition of the Infrastructure Division relating to traffic management on Cromwell's Lane. As such lands are outside the applicant's control such a condition would be ultra vires.
- Clarification has been provided in relation to options for surface water run off from the proposed development including Option 1 discharge to combined sewer subject to Irish Water Agreement and Option 2 provision of a soakaway on site.
- The development is unlikely by way of direct, indirect or secondary impacts, individually or in combination with other plans and projects to have any



significant effect on any European Site. A Stage 2 Appropriate Assessment is not required.

- Having considered the nature, size and location of the development there is no real likelihood of significant effects on the environment and as such an EIAR is not required.
- Having regard to the location of the proposed development in proximity to the town centre and train station and the zoning objectives for the area, the restoration and reuse of the protected structures on site, the proposed development is considered acceptable.
- The proposal would contribute to the regeneration of the site and help consolidate the urban fabric of Drogheda in line with national and local planning policies.

### 3.2.2. Other Technical Reports

Infrastructure Department: Report dated 4<sup>th</sup> of February 2021 requires further details in respect of transportation matters and SUDS.

Infrastructure Department: Report dated 22<sup>nd</sup> of June 2021 raises no objection subject to conditions.

Heritage Officer: Report dated 26<sup>th</sup> of January 2021 recommends a request for further information. The report outlines that no trees that are subject to TPO should be felled, a requirement for consistency between the recommendations of the Bat Survey and the landscaping plan in terms of the specifications for planting, Bat Survey for Bayview Cottage and mature trees are required. In terms of the proposed materials, it is stated that brick is not as widely used in Drogheda as grey render which may be more fitting with the appearance of the town.

Housing: Report dated the 22<sup>nd</sup> of June 2022 outlines that the proposed units are acceptable for compliance with Part V.

### 3.3. Prescribed Bodies

Irish Water: Report dated 22/01/2021 recommends further information in relation to the feasibility of connection to public water/waste infrastructure.

Department of Culture, Heritage, and the Gaeltacht: Report dated the 26/01/2021 raises no objection to the proposal subject to condition relating to archaeological pre-development trenching.

### 3.4. Third Party Observations

17 no. observations were received in respect of the application within the initial statutory consultation period. The following provides a summary of the issues raised:

- Overdevelopment of the site - The scale, mass, density and height of the development is out of character with existing development in the area. Reference is made to the planning history of the site wherein permission was refused for 48 no. units on site (ABP Ref PL54.131220, PA Ref: 02/510019) and where the no. of residential units was reduced from 21 to 16 (ABP Ref: PL15.244345, PA Ref:14/510041).
- Impact on Residential Amenity - The development will result in overshadowing, overlooking and will be visually overbearing in the context of surrounding development. The development would devalue adjoining properties.
- Traffic and Transportation - Inadequacies of the surrounding road infrastructure, insufficient car parking, concerns relating to proposed access arrangements and traffic impact.
- Heritage - The proposal will impact on the character and setting of Bayview House.
- Trees - Concerns are raised in relation to the loss of trees within a TPO area and impact on ecology including bats.

#### Submissions on FI Response

10 no. observations were submitted in respect of the applicant's response to Louth County Council's request for further information. These outline that concerns raised within the original submissions on the application remain unresolved within the FI response. Specific comments are made in relation to the submitted traffic reports. It is stated that these do not reflect the volume of traffic on Cromwell's Lane.

## 4.0 Planning History

### Appeal Site

- PA Ref: 14/510041, ABP Ref: PL15.244345: Planning permission granted by An Bord Pleanála in July 2015 for redevelopment of the site including 14 no. dwellings, subdivision of Bayview House into 2 apartments and the conversion of the existing coach house to accommodate 5 no. residential units. Condition no.2 of this permission omitted 5 no. residential units.
- PA Ref No. 19/1030: Planning permission granted for extension of duration of PA Ref. 14/510041 until the 29<sup>th</sup> of July 2025.
- P.A. Ref. No. 06/510131, ABP Ref: PL54.221329: Permission refused by An Bord Pleanála in June 2007 for demolition of existing dwelling Bayview Cottage, division of existing Bayview House into two number two-bedroom apartments, conversion of existing coach house structure and erection of new structure to create one number four-bedroom courtyard unit (Block B). The erection of new 28 unit apartment block (Block A), the erection of 1 no. 3-storey 5-bedroom courtyard unit (Block A2), the erection of 1 no. 2-storey 3-bedroom courtyard unit (Block A1) and basement level car parking for 52 no. parking spaces.

The reasons for refusal cited related to (1) impact of scale, massing and height of development would constitute overdevelopment and seriously injure the visual amenities of the area and the character and setting of Bayview House and injure the residential amenities of Beechwood House, (2) impact of the proposed layout on mature trees on site (3) traffic movements generated by the proposed development would endanger public safety by reason of traffic hazard and obstruction of road users.

- P.A. Ref: 02/510019, ABP Ref. PL54.131229: Planning permission refused by An Bord Pleanála in November 2003 for demolition of existing coach house and associated outbuildings, the construction of 48 duplex residential units in 3 no. 3-storey over basement blocks with roof gardens, associated external works including the provision of 48 car parking spaces.

Reasons for refusal cited related to (1) scale and density of the development would constitute overdevelopment of the site, be out of character with the site and would be contrary to the zoning objective pertaining to the site (2) impact on mature trees on site and detract from the setting of Bayview House and visual amenities of the site (3) traffic movements generated by the proposed development would endanger public safety by reason of traffic hazard and obstruction of road users.

Site to the south of the railway line along Dublin Road

- Knockmount House: PA Ref. 201022, ABP Ref. 311050-21: Louth County Council issued a notification of decision to grant permission in July 2021 for the construction of 28 no. apartments in 2 no. apartment blocks and renovation and conversion of Knockmount house to 4 no. apartments. The application is currently subject to appeal to An Bord Pleanála.

## **5.0 Policy Context**

### **5.1. Development Plan**

#### **Louth County Development Plan 2021-2027**

- 5.1.1. The application was assessed by Louth County Council in accordance with the policies and objectives of the Drogheda Borough Council Development Plan 2011-2017. The Louth County Development Plan 2021-2027 was adopted by Louth County Council on the 30 of September 2021 and came into effect on the 11th of November 2021. The Louth County Development Plan incorporates the functional area of the entire County including the areas formerly within Drogheda Borough Council, Dundalk Town Council and Ardee Town Council. In terms of the status of the Plan, Section 1.1 outlines that:

*“When adopted, the County Development Plan will replace the Drogheda and Dundalk Development Plans, and Urban Area Plans / Local Area Plans will be prepared for these towns during the lifetime of this Plan”,*

- 5.1.2. I have assessed the proposal in accordance with the policies and objectives of the operative Development Plan namely the Louth County Development Plan 2021 - 2027.

### Zoning

- 5.1.3. The site is zoned for Existing Residential (A1) purposes within the LCDP with an objective “To protect and enhance the amenity and character of existing residential communities”. Residential is listed as a “generally permitted use” on lands zoned for A1 purposes.
- 5.1.4. The Development Plan sets out the following guidance for development on A1 zoned lands: *“The objective for this zoning is to conserve and enhance the quality and character of established residential communities and protect their amenities. Infill developments, extensions, and the refurbishment of existing dwellings will be considered where they are appropriate to the character and pattern of development in the area and do not significantly affect the amenities of surrounding properties. The strengthening of community facilities and local services will be facilitated subject to the design, scale, and use of the building or development being appropriate for its location”.*

### Chapter 2 - Settlement Hierarchy / Core Strategy

- 5.1.5. Table 2.4 of the County Development Plan sets out the settlement hierarchy for County Louth. Drogheda and Dundalk are designated as Regional Growth Centres. The Plan set out the following guidance for these centres:
- “Regional Growth Centres are large towns with a high level of self-sustaining employment and services that act as regional economic drivers and play a significant role for a wide catchment area”.*
- 5.1.6. The following policies are of relevance:
- Policy Objective CS 2: To achieve compact growth through the delivery of at least 30% of all new homes in urban areas within the existing built up footprint of settlements, by developing infill, brownfield and regeneration sites and redeveloping underutilised land in preference to greenfield sites.

- Policy Objective SS4: To support high density sustainable development, particularly in centrally located areas and along public transport corridors and require a minimum density of 50 units/ha in these locations.
- Policy Objective SS5: To support increased building heights at appropriate locations in Drogheda, subject to the design and scale of any building making a positive contribution to its surrounding environment and streetscape.

### Chapter 3 - Housing

5.1.7. Section 3.11 of the Development Plan relates to residential densities. Table 3.2 sets out recommended densities in Higher Tier Settlements. For the Regional Growth Centres including Dundalk and Drogheda a recommended minimum density of 50 per hectare is identified for the town centre and 35 per hectare in edge of the settlement is recommended.

5.1.8. The Development Plan outlines that *“Whilst all developments should strive to achieve the recommended densities, it is acknowledged that there will be cases where there are specific constraints (such as topography) that will restrict the scale of development that can be delivered. In such cases a lower density than that prescribed may be considered acceptable”*.

5.1.9. Section 3.12 relates to “Buildings of Height”. The Plan seeks to support increased building in Drogheda and Dundalk, signifying their importance as regional growth centres. The following principles and criteria will be taken into consideration when identifying potential locations for higher buildings:

- Location: Higher buildings will normally be located in central areas of towns close to public transport, in strategic locations at the entrance to towns or on strategic lands on the approach road to the town centre.

The local area shall have the social and physical infrastructure to accommodate the increased levels of activity.

- Strengthened Legibility: Higher buildings shall be a positive landmark in the streetscape and shall respect and respond to the character of the area.
- Strengthen the Sense of Place: Higher buildings have an important role in shaping the perceptions of an area. If they are poorly designed or located in the wrong area, they can create a negative image for an area.

- Promote Quality Design: Higher buildings must make a positive and lasting contribution to their location
- Protect and Enhance the Existing Streetscape and Heritage: It is important that higher buildings do not disrupt or negatively impact on the historic areas of towns or intrude on important views. They should only be located in places that would enhance the character of an area.

5.1.10. Section 3.16.1 of the Plan relates to Infill, Corner and Backland sites. This outlines that the development of underutilised infill, corner and backland sites in existing residential areas is generally encouraged. A balance is needed, between the protection of amenities, privacy, the established character of the area and new residential infill.

- Policy Objective HOU 32 seeks: To encourage and promote the development of underutilised infill, corner and backland sites in existing urban areas subject to the character of the area and environment being protected.

#### Chapter 8- Natural Heritage, Green Infrastructure and Biodiversity

5.1.11. Table 8.6 of the Development Plan identifies tree preservation orders in Co. Louth. A Tree Preservation Order is identified for Bayview House (TPO 1) as illustrated on the attached presentation document. Map 8.11 identifies Trees and Woodlands of Special Amenity Value in Drogheda. TWSAV11 relates to Cromwell's Lane 1.

5.1.12. The following Policy Objectives are of relevance:

- Policy Objective NBG 29 seeks: *"To protect trees subject to Tree Preservation Orders and seek to designate additional Tree Preservations Orders (TPO), where appropriate"*.
- NBG 30 seeks *"To protect trees and woodlands of special amenity value. Review and where appropriate make Tree Preservation Order(s) in relation to trees of special amenity value"*.
- Policy Objective NBG 31 outlines that: *"Where in exceptional circumstances, trees and or hedgerows are required to be removed in order to facilitate development, this shall be done outside nesting season and there shall be a requirement that each tree felled is replaced at a ratio of 10:1 with native species and each hedgerow removed is to be replaced with a native species."*

*In Drogheda and Dundalk, replacement trees will be required at a ratio of 5:1 where the removal of trees is required in order to facilitate development”.*

5.1.13. Tree surveys, for both Drogheda and Dundalk along with Guidelines for Tree Protection are detailed in Appendix 5 and Appendix 6 of the Development Plan. Appendix 5 sets out the following description of trees at Bayview House:

- *TWSAV 70 Bayview House, Dublin Road - Senescent Sycamore, mature red Acer, Chestnut and some young Sycamore and Oak as replacements. The group has significant visual effect in this area.*

*Teagasc Weeping Ash, Weeping Beech, Copper Beech, Deodar, Manna Ash and Notofagus are unusual and should be protected.*

5.1.14. Map 8.18 identifies views and prospects for Drogheda.

#### Chapter 9 – Built Heritage

5.1.15. Bayview House is identified as a Protected Structure on Record of Protected Structures set out within Volume 4 of the Louth County Development Plan (see extract from Map 24i within the attached presentation document). Bayview House, Cromwell’s Lane (I.D.- DB-301, NIAH No. 13902407) is described as follows within the RPS:

- Description: *“Detached three-bay two-storey house, built c.1853. Set in grounds, entrance gateway to east, single storey shed to east, random rubble stone boundary wall”.*
- Appraisal: *“A substantial house with unusually small windows situated on rising land above train station in a mature setting”.*

5.1.16. The following Policy Objectives are of relevance:

- BHC 20 *To ensure that any development, modification, alteration, or extension affecting a protected structure and / or its setting is sensitively sited and designed, is compatible with the special character and is appropriate in terms of the proposed scale, mass, density, layout, and materials of the protected structure.*
- BHC 21 *The form and structural integrity of the protected structure and its setting shall be retained and the relationship between the protected structure,*



*its curtilage and any complex of adjoining buildings, designed landscape features, designed views or vistas from or to the structure shall be protected.*

- BHC 26 *To encourage the retention, sympathetic reuse and rehabilitation of protected structures and their settings where appropriate and where the proposal is compatible with their character and significance. In certain cases, development management guidelines may be relaxed in order to secure the conservation of the protected structure and architectural features of special interest.*

#### Chapter 13- Development Management

5.1.17. Chapter 13 of the County Development Plan sets out Development Management Guidelines. The following are of relevance:

- Section 13.8.4 relates to Density and Plot Ratio. Recommended densities and maximum plot ratios are set out within Table 13.3 as follows:
  - *Recommended Density:* Town/ Village Centre: 50 units per ha, Edge of Settlement: 35 units per ha
  - *Maximum Plot Ratio:* Town/Village Centre: 2, Edge of Settlement: 1
- Section 13.8.9 relates to Residential Amenity. In terms of privacy, the Development Plan sets out the following guidance:

*“Residential developments shall be designed to take account of the amenities of existing residents in the locality of a development area, in addition to the amenities of future residents of the subject development. Whilst some degree of overlooking between properties is likely to occur in urban areas, efforts shall be made to minimise the extent of this overlooking where this is possible. A minimum of 22 metres separation between directly opposing first floor habitable rooms in residential properties shall generally be observed.*

*This separation distance is not required for windows in non-habitable rooms such as bathrooms, stairwells or landings”.*

*There may be instances where a reduction in separation distances may be acceptable. This is dependent on the orientation, location, and internal layout*

*of the development and its relationship with any surrounding buildings. Any applications for such developments will be assessed on a case-by-case basis”.*

- Section 13.8.10 relates to Daylight and Sunlight. The following guidance is set out in this regard:

*“Care shall be taken in the design of residential developments to ensure adequate levels of natural light can be achieved in new dwellings and unacceptable impacts on light to nearby properties are avoided.*

*The Building Research Establishment (BRE) guidelines ‘Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice (2011) and BS 8206-2008 –‘Lighting for Buildings – Part 2: Code of Practice for Daylighting’ - provide useful guidance on avoiding unacceptable loss of light and ensuring developments provide minimum standards of daylight for new units. Section 6.7 of the ‘Apartment Guidelines’ states that where a proposal may not be able to fully meet all the requirements of the daylight provisions, this must be clearly identified and a rationale for any alternative, compensatory design solution must be set out, in respect of which the planning authority should apply their discretion, having regard to local factors including site specific constraints and the balancing of that assessment against the desirability of achieving wider planning objectives”.*

- Section 13.9.15 relates to Public Open Space *“Public open space within a development shall normally equate to 15% of the total site area.*
- Section 13.8.28 relates to Design Standards for Apartments. This outlines that all applications for apartments are required to demonstrate compliance with the Design Standards for New Apartments and the SPPR’s set out therein.
- Table 13.11 sets out Car Parking Standards. This sets out a requirement of 1 unit per apartment in Areas 1 and 2. Section 13.3.18 of the Plan outlines that a reduction in the car-parking requirement may be acceptable where the Planning Authority is satisfied that:
  - There is sufficient parking available in the vicinity of the development to cater for any shortfall.

- The nature of the development is such that existing parking spaces in the vicinity could facilitate the dual use of parking spaces, particularly if the development operated at off-peak times. Supporting documentation will be required demonstrating how the dual use will work.
- The public transport links available would reduce the demand for car parking.
- The central location of the development is such that the customers/residents/users of the development would be likely to walk or cycle.

5.1.18. Appendix 9 identifies Zones of Archaeological Potential for the County. MAP 9.1 identifies the zone of archaeological potential for Drogheda. This does not extend to include the appeal site.

## **5.2. Regional Spatial and Economic Strategy for the Eastern and Midland Region, 2019-2031**

5.2.1. Drogheda is identified as a Regional Growth Centre within the Core Region of the Eastern and Midland Region and was the fastest growing town in the most recent inter census period.

5.2.2. The RSES aims to enable Drogheda to realise its potential to grow to city scale, with a population of 50,000 by 2031 through the regeneration of the town centre, the compact and planned growth of its hinterland and through enhancement of its role as a self-sustaining strategic employment centre on the Dublin-Belfast Economic Corridor. It is anticipated Drogheda will accommodate significant new investment in housing, transport and employment generating activity.

## **5.3. National Planning Framework (2018)**

5.3.1. The National Planning Framework addresses the issue of 'making stronger urban places' and sets out a range of objectives which it considers would support the creation of high quality urban places and increased residential densities in appropriate locations while improving quality of life and place.

5.3.2. National Policy Objective 35 seeks to *"increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing*

*buildings, infill development schemes, area or site-based regeneration and increased building heights”.*

#### **5.4. Section 28 Ministerial Guidelines**

5.4.1. The following is a list of relevant Section 28 Ministerial Guidelines:

- ‘Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities’ (DECLG, updated 2020).
- ‘Design Manual for Urban Roads and Streets’ (DMURS) 2019.
- Architectural Heritage Protection – Guidelines for Planning Authorities 2011.
- ‘Urban Development and Building Heights Guidelines for Planning Authorities’ (2018).
- Regulation of Commercial Institutional Investment in Housing – Guidelines for Planning Authorities – May 2021.

#### **5.5. Natural Heritage Designations**

5.5.1. The site is not located within or adjoining a European Site. The following European sites are located within proximity to the site:

- The Boyne Coast and Estuary pNHA
- Boyne River Islands pNHA
- Boyne Coast and Estuary SAC (Site Code 001957)
- River Boyne and River Blackwater SAC (Site Code 002299)
- Clogher Head SAC (Site Code 001459)
- Boyne Estuary SPA (Site Code 004080)
- River Boyne and River Black Water SPA (Site Code 004232)
- River Nanny Estuary and Shore SPA (Site Code 004158)

#### **5.6. EIA Screening**

5.6.1. An Environmental Impact Assessment Screening report was not submitted with the application. The proposed development falls within the categories of ‘Infrastructural Projects’, under Schedule 5, Part 2 of the Planning and Development Regulations 2001-2020, where mandatory EIA is required in the following circumstances:

10(b)

- (i) Construction of more than 500 dwelling units.
- (iv) Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.

5.6.2. The proposal is for 58 no. residential units on a site of 0.6345ha. The proposed development falls below the development threshold and mandatory EIA is therefore not required.

5.6.3. I have given consideration to whether sub-threshold EIA is required. The introduction of a residential development on a serviced and zoned site within the urban footprint of Drogheda will not have an adverse impact in environmental terms on surrounding land uses. The site is not designated for the protection of the landscape or of natural heritage and the proposed development is not likely to have a significant effect on any designated Natura 2000 site. In terms of cultural heritage, I note that the site is currently occupied by a Protected Structure, Bayview House. I consider that sufficient information has been submitted by the applicants including an Architectural Heritage Impact Assessment. An Archaeological Assessment is also submitted in support of the application. I am satisfied that the extent and nature of the development proposed would have no significant adverse direct, indirect or cumulative effects on cultural heritage that would warrant the submission of a subthreshold EIA.

5.6.4. The proposed development would not give rise to waste, pollution or nuisances that differ from that arising from other housing in the neighbourhood. It would not give rise to a risk of major accidents or risks to human health. The proposed development would use the public water and waste water network.

5.6.5. Having regard to: -

- The nature and scale of the proposed development, which is under the mandatory threshold in respect of Class 10 - Infrastructure Projects of the Planning and Development Regulations 2001 (as amended),
- The location of the site within the built up urban footprint of Drogheda town,

- The location of the site outside of any sensitive location specified in Article 109 of the Planning and Development Regulations 2001 (as amended) and the mitigation measures proposed to mitigate the impact of the development on any such site,
- 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), and
- The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended),
- The features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the Preliminary Construction and Waste Management Plan, Ecological Report, Bat Survey and submitted Screening for AA.

5.6.6. I have concluded that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment and that on preliminary examination a sub-threshold environmental impact assessment report for the proposed development was not necessary.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

#### First Party Appeal

A first party appeal has been received by Stephen Ward Town Planning and Development Consultants on behalf of the applicant. The following provides a summary of the issues raised.

- The appeal relates to Condition no. 23 of the notification of decision of Louth County Council to grant permission for the development. Condition no. 23 relates to restrictions on occupation of the residential units to first occupation

by individual purchasers in accordance with the Guidelines issued on the “Regulation of Commercial Institutional Investment in Housing” May 2021.

- Appeal is made under Section 139 (b) of the Planning and Development Act 2000 (as amended) and having regard to the nature of the condition, the determination by the Board of the relevant application as if it had been made to it in the first instance is not warranted.
- Correspondence from Louth County Council attached to the appeal which confirms that the condition was attached in error. The Planning Authority has decided that it is unable to apply Section 146 A of the PDA to amend the clerical error.
- The wording of this condition is derived from Section 28 Guidelines issued on the “Regulation of Commercial Institutional Investment in Housing” May 2021. The Guidelines clearly state that they apply to Houses and Duplex units only and not apartments. Reference is made to the definition set out within Section 4 of the Guidelines in this regard.
- The development as proposed comprises of 58 no. apartments. Having regard to the Development Management Guidelines for Planning Authorities Condition no. 23 is not relevant to the development, not necessary and cannot be reasonably applied.
- The Board is requested to remove Condition no. 23.

### Third Party Appeals

3 no. 3<sup>rd</sup> party appeals have been received in respect of the notification of decision of Louth County Council to grant permission for the development. The following provides a summary of each of the grounds of appeal:

#### Daniel and Charlene Gerrard and John Coogan – Beechwood House

- Impact on residential amenity of Beechwood House. The development is visually overbearing and will overlook property and associated amenity space. Particular concerns are raised in relation to overlooking of private amenity space as resident is mobility impaired.
- Balconies 4,6 and 8 directly overlook private amenity space.

- Loss of privacy due to overlooking of Velux window in bathroom and bedroom.
- Devaluation of property.
- The proposal is contrary to the zoning objectives pertaining to site on the basis of impact of the residential amenity of the appellant's property.
- Concerns are raised in relation to traffic impact of the proposed development. Traffic surveys were undertaken during a lockdown and when during a mid-term break. Insufficiency of Cromwell's to accommodate additional traffic levels generated by the development.
- The proposed footpath would lead pedestrians onto a main road.

#### Kevin and Eimear Tiernan – The Walnut Cromwell's Lane

##### *Access and Transportation*

- Reference is made to previous An Bord Pleanála decisions wherein concerns relating to traffic hazard were raised.
- Safety concerns are raised relating to the proposed fire tender access.
- Insufficiencies of the existing road network including Cromwell's Lane, Poorhouse Road, Blackbush Lane and Dublin Road R132. The road network in the vicinity would not cater for cyclists/pedestrians or traffic associated with the proposed high density development.
- Road Safety Audit does not address the limitations of the road network within the vicinity of the site.
- Concerns relating to access for mobility impaired users. Safety concerns are raised in relation to the proposal to reinstate the existing entrance on Dublin Road and given the restricted footpath width, the proposed barrier will lead to conflicts with cyclists colliding with the barrier
- Car parking provision is unrealistic.

##### *Heritage*

- The proposal is contrary to the zoning objective pertaining to the site. It does not strike the necessary balance with the pattern of development in the vicinity



and would seriously injure the visual amenity of the area and the character and setting of Bayview House.

- The restoration of an active use for Bayview House and the Coach house is not an acceptable reason to grant planning permission.
- The proposed development will have a significant impact on the character and setting of the existing Protected Structure on site. There is no report on file from the Conservation Officer or submission on file from An Taisce.
- The overly dominant roof profile of the coach house will destroy the character of the building and diminish the appreciation of the eastern elevation of Bayview House.
- Concerns are raised in relation to the demolition of the original stone wall to facilitate access to the site to achieve adequate sightlines.
- The modern replacement of sash windows does not include the mechanism of case iron counterweights to allow ease of opening the windows. The suggested replacement sash windows do not protect the architectural heritage and does not follow good conservation principles in the replacement of such windows with modern mock replicas.

#### *Natural Heritage (Biodiversity)*

- Open space contributes positively to the character and attractiveness of Drogheda. It provides valuable areas for nature conservation and promoting biodiversity, acting as a buffer between conflicting landuses and helping to reduce and alleviate flood risk.
- Cross reference is made to the Heritage Officers Report which outlines that it is important that *“no trees subject to a TPO are felled”*.
- The bat survey does not include existing buildings.
- Louth County Council's decision suggests that guidelines for high rise and high density development supersedes natural heritages objectives.

#### *Proposed Scheme*

- The scale and density of the development constitutes an overdevelopment of the site which contains a protected structure. The proposal will detract from

the character and setting of Bayview House and seriously injure the visual amenities of the area.

- The development would be out of character with the area and is contrary to the guidance set out within the Residential Density Guidelines in this regard.
- The development does not promote ease of movement. Mobility impaired users will find the gradient of adjoining lanes difficult to use safely.
- Concerns are raised in relation to the overbearing and overshadowing impact of the proposed scheme adjoining residential properties.
- The visual dominance of the proposal is not characteristic of a residential area.
- Impact on residential amenity of Beechwood House in terms of overshadowing and overlooking. The roof structure of the adjoining property is not adequately shown. Screening is proposed on the balconies of apartments closest to no. 1 St Mary's Villas no such measures are proposed for apartments overlooking Beechwood House.
- Impact on residential amenity of existing properties along St. Mary's Villas and Cromwell's Lane as a result of overlooking and a perception of being overlooked and devaluation of properties in the vicinity of the site.

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- The appellants are residents of 1 St Mary's Villas adjacent to the western portion of the development site.
- Overbearing and negative impact on residential amenity. The proposed development is in conflict with the zoning objective for the site which seeks to protect and/or improve the amenities of developed residential communities.
- The scale of development is disproportionate for an infill site. Size and height of development will have an overbearing impact on existing residential property and amenity.
- Traffic impact of the proposal on a limited road network. Reference is made to concerns raised in relation to previous applications on site in this regard. There have been no improvements to the road network since previous

refusals. The development would pose a significant traffic and pedestrian safety hazard.

- The proposal is not sympathetic to the historic importance of Bayview House.
- The area is a habitat for bats.
- Request permission to be refused for the development.

## 6.2. Applicant Response

Stephen Ward Town Planning and Development Consultant have provided the following response to the grounds of appeal on behalf of the applicant:

### Planning History

- The application site currently has planning permission for 16 no. dwellings as permitted under P.A. Ref. 14/510041 ABP Ref. PL15.244345 as extended under P.A. Ref. 19/1030 until the 29<sup>th</sup> of July 2025. The proposed development retains the design permitted for Bayview House and the proposed vehicular access.

### Compliance with Policy

- The appeal response includes a statement of compliance with national and regional planning policy and the policies and objectives set out within the Louth County Development Plan 2015-2021 and the Drogheda Borough Council Development Plan 2011-2017.

### Fire Safety

- A response to concerns relating to fire safety is set out within the report prepared by FCC Fire Safety Engineers attached as Appendix B of the appeal response. This outlines that while the concerns raised are outside the scope of the planning process, the proposal is in compliance with the Building Regulations.

### Traffic and Traffic Safety

- The appeal response prepared by Waterman Moylan Consulting Engineers attached as Appendix C provides a response to the various Traffic and Traffic Safety issues raised. The following provides a summary of the points raised:

- The site is strategically located in proximity to Drogheda rail station and along a high quality public transport service.
- The car parking ratio at 0.5 is in accordance with the approach advocated in the apartment guidelines.
- The volume of additional traffic that will be generated by the proposed development is very low and will have a negligible impact on the surrounding road network.
- Proposals for Cromwell's Lane were developed in conjunction with Louth County Council.
- By making the road one-way it will improve traffic and pedestrian safety.
- The Road Safety Audit was undertaken by an independent third party Traffico Ltd. Issues raised within the RSA were addressed by the designer as part of the road safety audit process.
- The Tiernan appeal refers to short-term issues that give rise to traffic congestion within the area including funeral, school opening and closing times and "inconsiderate road users".

#### Natural Heritage

- A response to the concerns raised in relation to bats within the appeals is provided by Dr. Niamh Roche attached as Appendix D of the appeal response.
- This outlines that the bat survey of Bayview House was undertaken during peak activity season for bats in June 2020. There was no evidence during site surveys that a maternity roost, or roost of any description was present within the site.
- A dusk and pre-dawn survey was carried out to monitor the emergence of bats from existing buildings on site. No bats were observed exiting from or returning to the buildings on site. The surveys undertaken are in accordance with accepted methodologies for bat surveys.

- Reference is furthermore made to the requirements of Condition no. 8 of Louth County Council's notification of decision to grant permission for the development.

#### *Built Heritage*

- A detailed Heritage Impact Assessment prepared by a Grade 1 Conservation Architect was submitted in conjunction with the application.
- The proposed reuse of Bayview House and the coach house provides an opportunity to secure these elements of built heritage into the future.
- There are no protected structures or architectural conservation areas within the vicinity of the site.
- Reference is made to the requirements of Conditions 3,4,5,6 and 7 of Louth County Council's notification of decision to grant permission for the proposed development.

#### *Open Space Provision*

- Public and Private open space provision exceeds Development Plan requirements and the requirements of the Apartment Guidelines.

#### *Trees*

- 4 no. trees are proposed for removal to facilitate the proposed development. These trees are within the TPO area but are identified as Category C trees and not considered of high quality. The most valuable trees (T001 and T004) are retained and managed to ensure the relationship with the Coach House is retained.
- The proposed landscape plan prepared by Park Hood includes the planting of over 40 trees which exceeds the ratio of 4:1 required in the Louth County Development Plan.

#### *Residential Amenity*

- Figure 4 of the applicant's response to the grounds of appeal illustrates the location of the appellants properties relative to the appeal site. Figure 5 illustrates separation distances of various elements of the proposal to the appellants dwellings.

- The appeal response outlines that the proposed development has been designed to negate against impact on the residential amenities of adjoining properties. Reference is made to separation distances, existing and proposed boundary treatments and design features of the new block in this regard.
- Landscaping proposals include the retention of majority of hedgerows and trees on the western and north-eastern site boundary.
- The level difference between the site and the Dublin Road and the strong tree screen means that the development will not be visible from the Dublin Road.

### 6.3. Planning Authority Response

Louth County Council have provided the following response to the grounds of appeal.

#### Response to 1<sup>st</sup> party appeal

- The planning authority concur with the applicant's opinion that in this instance this condition pertaining to Section 146A of the PDA is not warranted.

#### Response to 3<sup>rd</sup> party appeals

- The planning authority has reviewed the content of the third party appeals in respect of this development and considers that the planner's report at FI stage (report dated 10<sup>th</sup> of February 2021) and the planners report at decision stage (report dated 23<sup>rd</sup> of June 2021) have addressed the issues raised.
- Design and traffic issues have been addressed extensively in the planning report.
- It is considered that the redevelopment of the site will benefit the wider area by providing much needed housing in an established residential area that is within walking distance of the train/bus and the town centre.
- In terms of traffic issues on previous refusals it is noted that there has been a change in government policy with a stronger emphasis on modal split. The site is ideally located to have regard of modal split.
- The issue of Part B of the Building Regulations does not fall under planning legislation for consideration.

- The Planning Authority request the Board to uphold the decision to grant permission for the development subject to the omission of Condition no. 23.

#### 6.4. Further Responses

Louth County Council's response to the grounds of appeal was recirculated to all parties. The following provides a summary of the responses received.

##### Applicants Response to Planning Authority Appeal Response

Correspondence from Stephen Ward Town Planning and Development Consultants on behalf of the applicant dated the 1<sup>st</sup> of September 2021 outlines that:

- The applicant supports the recommendation of Louth County Council to grant permission for the proposed development subject to the omission of Condition no. 23.

##### Daniel and Charlene Gerrard and John Coogan – Beechwood House

Correspondence dated the 7<sup>th</sup> of September 2021 outlines that the concerns raised within previous submissions and observations haven't been addressed by the planning authority. The following concerns are raised:

- Traffic safety concerns are restated. The traffic reports aren't available online and therefore safety concerns have not been addressed.
- Concerns relating to overlooking from the balconies to the appellants private open space are restated. Particular concerns in relation to overlooking from balconies on units 4, 6 and 8 are raised in this regard. Privacy issues associated with velux windows in bathroom and bedroom have not been addressed.
- The development is contrary to guidance set out within paragraph 6.6.8 of the development plan which states that infill/backland development should have due regard to existing surrounding development and not be detrimental to the residential amenity of existing residential properties.

##### Kevin Tiernan and Eimear Tiernan – The Walnut, Cromwell's Lane

Correspondence dated the 6<sup>th</sup> of September outlines the following.

- Reference is made to the planning history of the site and the conditions attached under PA Ref 14/510041 ABP Ref P11.5244345. It is stated that a number of the conditions attached to this permission relate to the conservation of Bayview House and its settings. The conditions attached under PA Ref 201086 relate to the conservation of Bayview House in isolation. It does not contain any conditions relating to the protection of the character and the setting of the protected structure or the architectural heritage of the area. No submission on the file has been received from An Taisce of the Conservation Officer.
- The proposed removal of trees within a TPO area is contrary to Heritage Officer's recommendations.
- The proposed barrier installation at entrance no. 4 is not indicated.
- Agree with Louth County Council's initial assessment that Condition no. 23 should apply. The definition of house set out within the guidelines differ for that set out within the Planning and Development Act 2000. While the main building relates to an apartment building Bayview House and the Coach House are proposed to be converted into apartments.
- The planner's reports on the application while addressing issues raised within the submissions on the application do not give due consideration to the points raised and appear to be dismissive.
- Concerns relating to impact on residential amenity of existing residential properties, lack of connectivity to the train station and contrary to existing zoning objective are raised.
- Reference is made to the requirements of Condition no. 37 of the planning authority's decision regarding interface of access no. 4 with the footpath on the R132. Concerns are raised that such details will not be subject to a separate application and instead will be subject to written agreement with the planning authority. Concerns relating to people with impaired mobility remain. The RSA identifies issues with overflow car parking within the area which are not addressed.



- Concerns regarding compliance with Part B of the Building Regulations have not been appropriately addressed. Alterations to the Protected Structure specified under Condition 3(a) are not sufficiently identified or addressed within the application.

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Correspondence from Virtus outlines the following:

- Does not consider that the issues raised within the grounds of appeal have been addressed extensively in the planner's reports as stated within the planning authority's response to the grounds of appeal. A number of key considerations have not been addressed within the planning authority's reports.
- Traffic and pedestrian safety issues have not been appropriately addressed by the planning authority. It is not clear if the Road Safety Audit extended to consider egress from Cromwell's Lane to the R132 which is a critical issue.
- Details of sightlines from Cromwell's Lane to the R132 have not been submitted. This is considered a critical issue. The Stage 2 Road Safety Audit includes significant works outside the application boundary. The applicant proposes to make Cromwell's Lane one-way, however the application boundary does not extend to include the Lane. The recommended conditions of the Infrastructure Division relating to the provision of works on Cromwell's Lane prior to the commencement of works on site are not reflected within the planning authority's decision.
- Reference is made to conflicting information within the application documentation. Drawing no. P040 and the reference in Section 3.4 of the TIA relating to sightlines of 20m at the entrance to Bayview House are acceptable as there will be no traffic coming from the left hand side. This is contrary to the layout illustrated on the Waterman Moylan Drawings. Sightlines are therefore considered insufficient.
- Safe pedestrian crossing of the R132 is identified in the Road Safety Audit. It is unclear whether this will be provided. Existing crossing route to the train

station is circuitous. Pedestrian routes to the development and along Cromwell's Lane are substandard.

- Insufficient Car Parking leading to overspill of parking to adjoining areas.
- Impact of scale and massing of the proposal on the character and residential amenities of the area. The development is incongruous within the surrounding residential area.
- There will be a profound impact on the residential amenities of existing properties at St. Mary's Villas in particular relating to the loss of privacy of the rear gardens.
- The site layout is questionable. Adequate consideration has not been given to the siting of the tallest element of the proposal to the north-west, lack of relationship between Bayview House and the Coach House. Impact of the proposal on the curtilage and setting of Bayview House. Proposal includes a road wrapping around the protected structure and 6 storey massing only 12.2m to the north of Bayview House.
- The siting of the car parking within the centre of the site is considered a poor design approach. The usability of public open space areas 2 and 3 to the north and south of the coach house is questioned due to their small size and peripheral location. The quantum and not the quality of these spaces has been assessed by the planning authority.
- Its unclear what apartments are classified as dual aspect. None of the apartments on the fourth floor appear to be dual aspect.
- Concerns are raised in relation to scope and content of the Sunlight and Daylight report prepared by IES. There are significant concerns relating to daylight and sunlight both within the development and to existing properties that have not been adequately assessed by the planning authority. The sunlight and daylight report does not identify the actual impact of the proposal on Beechwood House. Public Open space area 3 to the south of the Coach House has not been assessed.
- The IES report identifies a target of 1.5% for living rooms in the ADF study (page 27). However, the layouts comprise a combined dining/living/kitchen

space wherein the guidelines set out a target of 2%. Some living areas are within 1.5% and marginally above. The Board is requested to give the matter careful consideration.

## **7.0 Assessment**

7.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Principle of Development
- Design, Layout and Impact on Character and Setting of Bayview House
- Height and Impact on Visual Amenity
- Impact on Residential Amenity of Adjoining Properties
- Residential Amenity of Proposed Units
- Access and Transportation
- Other Issues
- Condition no. 23
- Appropriate Assessment

## **7.2. Principle of the Development**

- 7.2.1. The site is located within the administrative boundary of Louth County Council. At the time of the assessment of the application, the Drogheda Borough Council Development Plan 2011-2017 was the operative development plan for the area. The application was assessed by Louth County Council in accordance with the policies and objectives of the Louth County Development Plan 2015-2021 and the Drogheda Borough Council Development Plan 2011-2017.
- 7.2.2. The Louth County Development Plan 2021-2127 was adopted by Louth County Council on the 30th of September 2021 and came into effect on the 11th of November 2021. In terms of the status of the plan I refer to the following guidance set out within paragraph 1.1.

*“When adopted, the Draft County Development Plan will replace the Drogheda and Dundalk Development Plans, and Urban Area Plans / Local Area Plans will be prepared for these towns during the lifetime of this Plan.”*

- 7.2.3. I have assessed the proposal in accordance with the policies and objectives of the operative Development Plan namely the Louth County Development Plan 2021-2027.
- 7.2.4. The appeal site is zoned for Existing Residential purposes (A1) with an objective *“to protect and enhance the amenity and character of existing residential communities”* within the Louth County Development Plan 2021-2027. Residential is listed as a “generally permitted use” on lands zoned for A1 purposes. The vision for A1 zoned lands within the development plan is *“to protect and enhance the amenity and character of existing residential communities”*. The impact of the proposal on the residential amenities of existing properties in the vicinity of the site is therefore a key consideration in assessing the proposed development and this is considered in further sections of this assessment.
- 7.2.5. Drogheda is designated as a Regional Growth Centre within the Louth County Settlement Hierarchy. The appeal site is located within close proximity to Drogheda town centre, train station and existing bus routes along the Dublin Road. National and local policies support the redevelopment of centrally located brownfield sites for residential development to support compact growth including Policy Objectives of the CS2 and CS6 of the Louth County Development Plan 2021-2027. I consider that the principle of the redevelopment of an existing infill/ brownfield, zoned site within the urban footprint of Drogheda is acceptable.
- 7.2.6. The site is a brownfield infill site within an established residential area. The grounds of appeal raise concern that the development as proposed represents an overdevelopment of the infill site and reference is made to the planning history of the site wherein permission was refused on grounds of overdevelopment.
- 7.2.7. The proposal includes the development of 58 no. units on a 0.6345 ha site yielding a density of 91 units per hectare. Objectives 4, 13, 33 and 35 of the National Planning Framework, Section 4.7 of the Regional and Economic Strategy for the Eastern and Midland Region 2019-2031, SPPR1 and SPPR4 of the 2018 Urban Development and Building Heights Guidelines, 2018 all support higher density developments in

appropriate locations, to avoid the trend towards predominantly low-density commuter-driven developments.

- 7.2.8. Under national guidance as set out in the guidelines Sustainable Residential Development in Urban Areas (2009), minimum net densities of 50 dwellings per hectare apply to the site, given its location adjacent to a public transport corridor, being within 1km of a high quality rail station and served by a frequent bus service. The Apartment Guidelines identify types of locations in intermediate urban locations where apartments are suitable, which includes sites within 800-1000m of a principal town and within walking distance (1000-1500m) of a high capacity urban public transport stop (including a commuter rail). The application site is within such distances. The Louth County Development Plan promotes densities of 50 units per ha in Drogheda town centre and 35 units per ha in edge of centre locations.
- 7.2.9. The application documentation details that the proposal has a plot ratio of 0.8 and a site coverage of 27%. The proposal does not exceed the maximum plot ratio standards identified within Section 13.8.4 of the Louth County Development Plan in this regard.
- 7.2.10. I consider that the principle of the proposed density and plot ratio is acceptable and in accordance with guidance set out within national and local policy subject to residential amenity standards and consideration of how the design of the proposal responds to existing site constraints including impact on the character and setting of Bayview House, the existing Protected Structure on site, the impact on existing trees on site which are subject to a Tree Preservation Order and existing residential development in the area.

### **7.3. Design, Layout and Impact on Character and Setting of Protected Structure**

- 7.3.1. The proposed development includes refurbishment and subdivision of Bayview House to accommodate two 2 bed apartments, the demolition of an existing bungalow on site Bayview Cottage, construction of a new part 4 part 5 storey apartment building within the curtilage of Bayview House and the refurbishment and conversion of the existing coach house within the curtilage of the Protected Structure.
- 7.3.2. A Quality Urban Design Assessment prepared by Van Dijk Architects is submitted in conjunction with the application. This outlines how the proposal complies with the 12

no. criteria set out within the Urban Design Manual. The following design considerations which informed the proposed layout are identified within the application documentation:

- Bayview House will be set in its own distinctive space with the most notable trees (T001 and T004) retained;
- The Coach House will be restored and extended to give it both a residential and functional use;
- The main apartment building is set across an area where there is no significant vegetation;
- Reinstated link through the site from Cromwell's Lane to Dublin Road to the north;

#### Works to Bayview House

- 7.3.3. The proposed development includes works to Bayview House (a Protected Structure), demolition of existing cottage known as Bayview Cottage and reuse and refurbishment of the existing Coach House building on site. Bayview House is described within the Record of Protected Structures as set out in Volume 4 of the Louth County Development Plan 2021-2027 as follows:

*“Detached three-bay two-storey house, built c.1853. Set in grounds, entrance gateway to east, single storey shed to east, random rubble stone boundary wall”.*

- 7.3.4. Bayview House is identified as a building of Regional Importance within the NIAH and described as follows (Ref: 13902407):

*“Detached three-bay two-storey house, built c. 1853. Rectangular-plan, two-storey lean-to to west (rear), two-storey hipped roof wing to north-west, single-storey hipped roof garden room to centre east elevation, single-storey flat-roofed entrance porch to centre north elevation. Hipped slate roof set behind parapets to main elevations, clay ridge and hip tiles, yellow brick corbelled chimneystacks with blue brick banding and octagonal clay pots, half-round galvanised steel gutters to west elevation lean-to and south elevation return; concrete tiled roof to garden room, uPVC rainwater goods. Unpainted ruled-and-lined walling, moulded cornice and coping to roof parapet, painted straight channelled quoins. Square-headed window openings, painted moulded render architraves, painted stone sills, uPVC casement windows. Square-*

*headed entrance door opening, moulded render surround, painted timber panelled door. Set in grounds, entrance gateway to east; single-storey hipped roofed shed to east, random rubble stone boundary wall with rubble stone coping, steel entrance gates, narrow lane to south”.*

- 7.3.5. Bayview House is currently in a state of disrepair and boarded up and the remainder of the site is currently overgrown. The development includes the refurbishment and reuse of Bayview House to accommodate 2 no. apartment units. A Report on the Architectural/ Historical significance of Bayview House prepared by David Slattery Architect- Historic Building Consultants is submitted in support of the application. This outlines that Bayview House is included in the Record of Protected Structures on the basis of its architectural and historic significance and sets out details of the proposed works to the structure to facilitate the conversion of the building to apartments. The report outlines that the ongoing vacancy and dereliction of the structure has led to vandalism of architectural detail and the proposed works will enable the structure to be brought back into use, and thereby provide ongoing protection for the historic fabric. The assessment concludes that the proposed redevelopment of the site will have a positive impact on the architectural significance of the Protected Structure.
- 7.3.6. The application drawings indicate minimal intervention to the internal layout of the house. I consider that the internal layout of Bayview House does lend itself to conversion to two apartments and the principle of the reuse and refurbishment of the building is in accordance with Policy Objectives BHC 20, BHC 21 and BHC 26 of the Louth County Development Plan 2021-2027.
- 7.3.7. The principle of works to the building was furthermore accepted by Louth County Council and An Bord Pleanála under PA Ref: 14/510041, ABP Ref: PL15.244345. The Architectural/ Historical significance of Bayview House prepared by David Slattery Architect- Historic Building Consultants outlines that the works to the Protected Structure in the subject application do not constitute any major deviation in the previously approved scheme.
- 7.3.8. Concerns relating to the scope of the study and the details of the works to Bayview House were raised within Louth County Council's request for further information. Further clarification relating to the detail of the proposed works are requested within

Condition no. 3 of Louth County Council's notification of decision to grant permission for the development including a complete survey and heritage appraisal of Bayview House. I consider that such a condition is appropriate in the instance that the Board is minded to grant permission for the development.

#### *The Coach House*

- 7.3.9. The proposal also includes refurbishment and extension of the existing coach house on site to provide for 2 no. apartments and ancillary storage use. The Report on the Architectural/ Historical significance of Bayview House prepared by David Slattery Architect- Historic Building Consultants outlines that the Coach House is not included in the RPS or the National Inventory of Architectural Heritage but is within the curtilage of Bayview House and considered to be of some architectural and cultural significance, based on its contribution to the character and setting of Bayview House.
- 7.3.10. Concerns are raised within the grounds of appeal in relation to the proposed roof profile of the extended Coach House and its impact on vistas towards Bayview House. The relationship between the proposed extended Coach House and Bayview House is illustrated on the Site Sections (Drawing no. 2008-PA-005). The Coach House is currently in a semi ruinous state. I consider that the proposed extension will read as a distinct contemporary intervention and that the reintroduction of an active use to this structure will have a positive impact on the character and setting of Bayview House.

#### *Proposed Apartment Block*

- 7.3.11. The proposed development includes the construction of a 5 storey residential block to the north (side) and west (rear) of Bayview House. The grounds of appeal raise a number of concerns in relation to the impact of the proposal on the character and setting of Bayview House primarily in terms of the siting of the proposed apartment block, the proposed access road surrounding the building and siting of the open space. A case is made that the application addresses works to the protected structure in isolation and little consideration has been given to the character and setting of the structure. The appeal furthermore outlines that none of the conditions attached to the permission seek to retain to character and setting of the Protected Structure.



- 7.3.12. On review of the proposal, I consider that the proposal harmonises with the protected structure in terms of position, design and materials. I consider that the design of the proposed apartment building is contemporary and very simply in terms of form and design features. The proposed material pallet including brick and metal cladding are complimentary to the protected structure.
- 7.3.13. The siting of the proposed apartment block to the west and north of Bayview House will allow for the preservation of the setting of the House and in my view the proposed apartment block is at sufficient distance from the Protected Structure so as to minimise any negative visual impact. Its alignment and position has provided private amenity spaces and a forecourt to Bayview House that will improve its setting. I consider that the set back of the block from Cromwell's Lane maintains the prominence of Bayview House at this location. The proposed separate access road to the apartment block allows for the preservation of the relationship between the house and the original entrance, mature trees, outbuilding and restored corner entrance all to the east side of the house. I note that the siting of the main access road to the west of Bayview House primarily reflects that permitted under PA Reference 14/510041, ABP Ref PL15.244345. The duration of this permission was extended to July 2025 under PA Reference 19/1030.
- 7.3.14. I accept the points made by the appellant relation to the dominance of the internal road network and parking area within the scheme and consider that revised proposal could be provided which provide a reduced road width and additional landscaping in the instance that the Board is minded to grant permission for the development. Conditions relating to details of boundary treatment for the proposed private amenity spaces are also appropriate to protect the character and setting of the Protected Structure.

### Trees

- 7.3.15. The majority of the appeal site is subject to a Tree Preservation Order and the existing trees on site from an important element of the character and setting of Bayview House. The townscape and visual impact assessment outlines that the retention of existing trees and siting of the proposed development away from their root zones was a key consideration at design stage in terms of the site layout and based on tree health and condition.

- 7.3.16. The application documentation outlines that 4 no. trees on site are proposed for removal to accommodate the proposal including 3 no. trees within the TPO area. I consider the proposed loss of trees is acceptable having regard to the quality of the proposed landscaping scheme which includes replacement planting at a ratio which is over and above Development Plan requirements and the need to develop the subject site to its maximum potential in accordance with strategic land use policy for urban areas. I also note that the planning authority has raised no objection to the loss of existing trees on site to facilitate the proposal. Significant trees on site including those along the site's eastern boundary and at the entrance to Bayview House are proposed for retention as part of the development.
- 7.3.17. As the site is zoned for residential development and is serviced and suitable in principle for such use, some level of loss to trees is acceptable and unavoidable. Having regard to the siting of the trees proposed for removal relative to Bayview House, I do not consider that the loss of trees will impact on the character and setting of the Protected Structure.

*Demolition of Bayview Cottage and Removal of Stone Wall*

- 7.3.18. The development includes demolition of an existing cottage in the south-east corner of the site Bayview Cottage. The existing cottage is modern, and I have no objection to its demolition to facilitate the development in this regard.
- 7.3.19. The development includes removal of an existing stone wall to the front of Bayview Cottage to provide a footpath and to facilitate sightlines at the proposed entrance to the apartment development. The applicant was requested to consider options to lower rather than the remove of the stone wall to the front of Bayview Cottage within Louth County Council's request for further information. The applicant's FI response confirms that the stone wall is a modern construct, of no heritage value. I have no objection to the proposed removal of the wall on this basis.
- 7.3.20. The appeal site is currently enclosed by a stone wall boundary to the east and south along Cromwell's Lane as illustrated within the attached presentation document. The proposal includes the removal of a portion of this stone wall to facilitate access to the site. The grounds of appeal raise concern in relation to the proposal to remove part of the stone wall on the basis of its contribution to the character and setting of Bayview House.

7.3.21. In considering the points raised, I note that the proposed access arrangements have been previously permitted by Louth County Council and An Bord Pleanala. I do not consider that the proposed works to facilitate the entrance to the site will unduly impact on the visual amenities of the area or the character and setting of Bayview House.

#### Conclusion

7.3.22. On an overall basis, in design terms, I consider that the proposal presents a modern building form which successfully integrates into the character of the area. I consider that the proposal would integrate positively into the existing streetscape and the development has been appropriately designed to respond to the existing site context and negate against impact on the character and setting of Bayview House and the Coach House. The restoration and provision of an active use within Bayview House will enhance the overall amenity of the site.

#### **7.4. Height and Visual Impact**

7.4.1. The prevailing height context in the vicinity of the site comprises 2 storey residential properties to the west. The proposal comprises the construction of a 4 to 5 storey apartment block to the west of Bayview House.

7.4.2. The proposed 5 storey height of the development represents an increase from the surrounding site context. In terms of the principle of the proposed height, Section 2.13.4 of the Louth County Development Plan 2021-2027 outlines that the Local Authority will actively promote and support proposals to develop buildings of increased height on suitably located and configured lands.

7.4.3. The Development Plan identifies the traditional low rise nature of buildings within Drogheda and Dundalk of 2-3 storeys and supports the development of high buildings on lands which are “*centrally located, in proximity to public transport or in strategic locations in the Town where such buildings could function as a landmark or focal point for development*”. Further guidance on appropriate locations for additional height are identified within 5.1.11. of the Louth County Development Plan. Reference is made to locations in proximity to public transport and along the main approach roads to towns in this context. I consider that the appeal site is such a location.

- 7.4.4. The Development Plan outlines that a more detailed analysis of the preferred location for taller buildings will be carried out as part of the Joint UAP/LAP for Drogheda. In the interim the development of taller buildings, which are supported by appropriate design briefs, and which are consistent with the provisions of the Specific Planning Policy Requirements set out in the Urban Development and Building Heights, Guidelines for Planning Authorities, 2018, will be considered.
- 7.4.5. As there are no height restrictions pertaining to the site in the development plan, and the proposed development does not materially contravene the Plan, I am satisfied that strict reliance on SPPR3 is not required to facilitate a grant of permission. However, as an aid to assessing the merits of the scheme, in respect of the proposed height, I have considered the proposal in line with the criteria set out within the Building Height Guidelines and the Louth County Development Plan 2021-2027.
- 7.4.6. I have considered the proposal in line with the criteria set out within the Building Height Guidelines and the Louth County Development Plan 2021-2027. At the scale of the town/city, I note that the site is located at an accessible location in close proximity to Drogheda town centre, adjacent to a public transport hub.
- 7.4.7. In visual terms, while the new apartment buildings will be visibly taller than existing development within the vicinity, views will be somewhat limited given the setback from the Dublin Road and mature trees to be retained on site. The site is not located within a visually sensitive location within Drogheda. The Townscape and Visual Impact Assessment prepared by Parkhood Chartered Landscape Architects sets out an assessment of the proposal at the local townscape and wider context. This outlines that the site, which comprises derelict and vacant buildings, would be categorised as degraded and poor townscape/landscape with a low sensitivity, quality and value. I agree with the assessment in this regard and consider that the site contributes little to the visual amenity of the area. Bayview House is currently in a state of disrepair and boarded up and the remainder of the site is currently overgrown.
- 7.4.8. The Townscape and Visual Impact Assessment prepared by Park Hood outlines that the proposed development will not be visible from 8 of the 9 Strategic Views identified within the Drogheda Borough Council Development Plan (DBC DP) 2011-2017. Such views are reflected in Map 8.18 of the Louth County Development Plan

2021-2027. Photomontage Viewpoint 8 illustrates views of the site from Martello Tower, Millmount (Strategic View 1 of the Drogheda Borough Council Development Plan, VP 49 of the Louth County Development Plan 2021-2027). The view illustrates that the proposed development is located at such a distance that it will be visually obscured by the collective intervening trees and woodlands. I agree with the conclusion of the TVIA in this regard which outlines that the effects are negligible.

- 7.4.9. Viewpoint no. 4 illustrates that the proposed development will be visible from Drogheda Train Station, a designated Protected Structure. The Townscape and Visual Impact Assessment outlines that the proposal will have a moderate impact from this viewpoint concludes that the proposal will be a distinctive addition to the local architecture skyline and townscape.
- 7.4.10. At the scale of the district/neighbourhood, I note that views of the site from the surrounding site context are currently limited due to the distance from the R132 and the existing dense landscaping on site. The site benefits from having a well-established and mature boundary and the application documentation outlines that the objective is to retain and augment this to ensure that this continues to act as a visual frame and setting for Bayview House and the proposed development. Views of the site from the surrounding site context are limited due to the established site boundary and the nature of intervening development. Viewpoints 6 and 7 illustrate that the proposal is not visible from the R132 Dublin Road.
- 7.4.11. The dominant built form within the area comprises detached and semi-detached two storey houses. The TVIA outlines that while the proposed 5 storey apartment building will be a change from existing development within the area, this change can be accommodated and absorbed without causing detriment or adverse character effects.
- 7.4.12. Photomontage Viewpoints 1,2,3 and 5 illustrate views of the proposal from the local site context including adjacent residential areas along Cromwell's Lane (Viewpoint 1), St. Mary's Villas (Viewpoints 2 and 3) and Mount Auburn (Viewpoint 5). A moderate change is identified along Cromwell's Lane where the proposal will form a visible addition to the eastern backdrop and illustrate a discernible difference between low and higher buildings at this juncture. It is noteworthy that the existing trees on site and the roof of Bayview House remain visible from this viewpoint. From

St. Mary's Villas the TVIA identifies that the proposal will be visible in glimpse views from the public road resulting in a slight change in the backdrop context. Views from Mount Auburn are identified as slight and neutral given the distance and context within the TVIA.

- 7.4.13. I note that the proposed apartment block will result in significant changes to the north and western part of the application site. However, I do not consider that unacceptable townscape/ landscape or visual effects arise and consider that the development can be successfully absorbed into the character and views of this part of the town.

#### Conclusion

- 7.4.14. In conclusion, I consider that the principle of the proposed 5 storey height can be considered at this location in both visual and policy terms subject to consideration of relevant qualitative and amenity standards. The site is located adjacent to the railway line and along a main approach road to Drogheda town. While the proposed buildings will be visibly taller than existing buildings within the vicinity, views of the development will be somewhat limited as a result of the set back from the Dublin Road and landscaping proposals.
- 7.4.15. Within the site, I consider that the restoration works to Bayview House, the Coach House and associated stone walls will have a positive effect on local townscape character. I consider that the site in its current format, detracts from the visual amenity of the area. While I note that the proposed new apartment building will impact on the setting of Bayview House due to proximity and scale, I consider that the building has been sensitively designed and sited to respect the character and setting of the protected structure.

#### **7.5. Impact on Residential Amenity**

- 7.5.1. The appeal site is adjoined by existing residential development to the north-west and west at St. Mary's Villas. The third party appeals raise concern in relation to the impact of the proposal on the residential amenities of existing dwellings in the vicinity of the site. Concerns relating to overlooking, overbearing, overshadowing and impact on privacy are raised in this regard. I consider the issues raised in turn as follows.

### Overlooking

7.5.2. The Architectural Design Statement prepared by Van Dijk Architects outlines that the proposed development aims to protect the privacy of the existing neighbouring residents by utilising a north south orientation and facing spaces away from the westerly outlook.

- St. Mary's Villas

7.5.3. In terms of separation distance, I note that the proposed apartment block is set back by over 22m from adjoining properties to the northwest (no. 1 St. Mary's Villas) and west (nos. 4 to 10 St. Mary's Villas) in accordance with the standards set out within Section 13.8.9. of the Louth County Development Plan. The Proposed Site Layout Plan illustrates that the apartment block is set back by 24m from no. 1 St. Mary's Villas to the northwest and by c. 54m from properties at no. 4 to 10 St. Mary's Villas to the west.

7.5.4. Balconies are proposed on the western elevation of the proposed apartment block and while there may be a perception of increased overlooking, I consider that the proposal is appropriate in an urban context. Balconies at the corner of the apartment building (Apartment Unit nos. 34,39,44 and 49) as illustrated within the Proposed Bayview Apartment Building Elevations (drawing no. 2008-PA-BL-KA-201) have been designed with privacy screens on the western side to negate against overlooking of No. 1 St. Mary's Villas. The mature tree/hedgerow screen at this location will also be supplemented by additional planting. I consider that this will successfully negate against undue overlooking.

7.5.5. At present the western boundary of the site is defined by dense hedging and trees as illustrated within the attached presentation document. The existing properties and associated private amenity space to the northwest and west of the site are currently not visible from the site. The Landscaping Plan illustrates that the existing boundary treatment will be retained and supplemented by additional tree planting. I consider that the existing and proposed boundary treatment will also negate against overlooking.

7.5.6. In conclusion, having regard to the separation distance between the proposed apartment block and adjoining properties at St. Mary's Villas and the existing and proposed boundary treatment together with the proposed privacy screening on a

number of balconies on the western elevation I do not consider that the proposal would result in undue overlooking/loss of privacy of existing residential properties at St. Mary's Villas.

- Beechwood House

7.5.7. Beechwood House, which fronts onto Cromwell's Lane is located immediately to the west of the appeal site. A separation of 5.2 m is provided between the proposed apartment block and Beechwood House.

7.5.8. I note that no windows or west facing balconies are provided along the western elevation of the proposed apartment block which directly faces the rear garden area of Beechwood House. The closest balconies to the rear elevation of Beechwood House relate to apartments 15,20 and 25 at first to third floor level are c. 16m to the north-east of the rear façade of Beechwood House and c.12m from the site boundary where it meets Beechwood House at an angle. I consider that the separation distance and existing and proposed boundary treatment is sufficient to negate against undue overlooking at this location.

7.5.9. The third party appeal raises particular concern in relation to overlooking of the amenity space to the front of Beechwood House. In this regard I note that balconies 4,6 and 8 are located 5m away from the property. While these balconies are located at an angle to the front of Beechwood House, they would overlook the amenity space to the front of the property and would result in a perception of being overlooked. I recommend that privacy screens are incorporated along the western elevation of these balconies in the instance that the Board is minded to grant permission for the development.

- The Walnut, Cromwell's Lane

7.5.10. "The Walnut" Cromwell's Lane is located on the south side of Cromwell's Lane and does not directly adjoin the appeal site. Having regard to the location of the property relative to the appeal site I do not consider that overlooking from the development arises.

Overbearing

7.5.11. The appeals on the application outline that the proposal will have an overbearing visual impact from outlook of existing residential properties in the vicinity of the site.



Having reviewed the architectural drawings and submitted photomontages and having regard to the separation distances between the existing properties and the proposed development I do not consider that the proposal will have a significant overbearing visual impact on existing residential properties. I consider that the development can be successfully absorbed within the surrounding site context.

#### Sunlight and Daylight

- 7.5.12. The proposed apartment block ranges in height from 4 to 5 storeys. The prevailing height context in the vicinity of the site is characterised by single and 2 storey dwellings. Section 13.8.10 of the Louth County Development Plan outlines that *“care shall be taken in the design of residential developments to ensure adequate levels of natural light can be achieved in new dwellings and unacceptable impacts on light to nearby properties are avoided”*.
- 7.5.13. The provisions of 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) are relevant in the assessment of this development. The BRE document is specifically referenced in the Louth Development Plan (Section 13.8.10 Development Management Standards), in addition reference to same is made in the Section 28 Ministerial Guidelines on Urban Development and Building Heights 2018.
- 7.5.14. A Daylight, Sunlight and Overshadowing Study Report prepared by IES Consulting is submitted in conjunction with the application. The applicant’s assessment of daylight, sunlight and overshadowing relies on the standards in the following documents:
- BRE Report “Site Layout Planning for Daylight and Sunlight”; and
  - British Standard BS 8206-2:2008 Lighting for Buildings – Part 2 Code of Practice for Daylighting.
- 7.5.15. I have considered the report submitted by the applicant and have had regard to BRE 2009 – Site Layout Planning for Daylight and Sunlight – A guide to good practice (2011) and BS 8206-2:2008 (British Standard Light for Buildings - Code of practice for daylighting). 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 & Building Heights Guidelines and the Louth County Development Plan 2021-2027.

7.5.16. I have also carried out a site inspection, considered the submissions received, that have raised issues in respect of potential impact on their houses and properties as a result of overshadowing/loss of sunlight/daylight and reviewed the planning drawings relating to the properties in the vicinity of the appeal site.

7.5.17. The Building Height Guidelines seeks compliance with the requirements of the BRE standards and associated British Standard (although I note that BS 8206-2:2008 is withdrawn and superseded by BS EN 17037:2018), and that where compliance with requirements is not met that this would be clearly articulated and justified.

7.5.18. The Building Research Establishments (BRE) 'Site Layout Planning for Daylight and Sunlight – A guide to good practice' provides a number of tests relevant to residential amenity (e.g. ADF, VSC, Sunlight to existing amenity space, Sunlight to adjoining property and APSH, etc.) to measure daylight, sunlight and overshadowing impact. However, it should be noted that the standards described in the BRE guidelines are discretionary and not mandatory policy/criteria (para.1.6). The BRE guidelines also state in paragraph 1.6 that:

*“Although it gives numerical guidelines, these should be interpreted flexibly since natural lighting is only one of many factors in site layout design.”*

7.5.19. The BRE note that other factors that influence layout include considerations of privacy, security, access, enclosure, microclimate etc. in Section 5 of the standards. In addition, industry professionals would need to consider various factors in determining an acceptable layout, including orientation, efficient use of land and arrangement of open space, and these factors will vary from urban locations to more suburban ones. The BRE guidelines state that in relation to daylight to existing buildings:

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

### Internal Daylight and Sunlight

- 7.5.20. Concerns are raised within the grounds of appeal in relation to the Daylight levels achievable within the proposed apartment building. In general, Average Daylight Factor (ADF) is the ratio of the light level inside a structure to the light level outside of structure expressed as a percentage. The BRE 2009 guidance, with reference to BS8206 – Part 2, sets out minimum values for Average Daylight Factor (ADF) that should be achieved, these are 2% for kitchens, 1.5% for living rooms and 1% for bedrooms. Section 2.1.14 of the BRE Guidance notes that non-daylight internal kitchens should be avoided wherever possible, especially if the kitchen is used as a dining area too. If the layout means that a small internal galley-type kitchen is inevitable, it should be directly linked to a well daylit living room. This guidance does not give any advice on the targets to be achieved within a combined kitchen/living/dining layout. It does however, state that where a room serves a dual purpose the higher ADF value should be applied.
- 7.5.21. Section 7 of the Daylight, Sunlight and Overshadowing Study Report prepared by IES Consulting and submitted in conjunction with the application assesses Average Daylight Factors (ADF) within the proposed units. Section 7.2 of the study cites the following recommended ADF levels within BRE's guidance – Bedrooms 1%, Living rooms 1.5%. Sections 7.4 to 7.7 of the report present ADF levels for select rooms at lower ground, ground, third and fourth floor levels. The report outlines that the rooms selected represent the "worst case scenario" locations within the proposed scheme. The assessment concludes that in all instances the selected rooms exceed BRE recommendations.
- 7.5.22. However as identified within the grounds of appeal the proposed apartment layouts include a combined kitchen/living/dining room. As these rooms serve more than one function the 2% ADF value would apply to these spaces. On review of the tables set out within Section 7.4 to 7.7 of the applicant's assessment I note that a number of the combined kitchen/living/dining room spaces, while exceeding the 1.5% standard have ADF levels of below 2%.
- 7.5.23. On the basis of the information submitted I note that of the 20 combined living/kitchen/dining rooms assessed that only 4 have ADF levels of under 2% and in all instances, these exceed ADF levels of 1.5%. On review of the information

submitted I consider that in a scheme of this nature it is significantly challenging for all large open plan living / kitchen / dining rooms to achieve 2% ADF and consider that rooms that achieve in excess of 1.5% ADF would enjoy good daylight amenity. I furthermore note that the ADF for rooms is only one measure of the residential amenity that designers should consider in the design and layout, and to this end, I am satisfied that the applicant, while proposing an alternative ADF for the kitchen/living rooms, has endeavoured to maximise sunlight/daylight to the apartments.

- 7.5.24. I note that Criteria 3.2 of the Building Height Guidelines states that appropriate and reasonable regard should be had to the quantitative approaches as set out in guides like the Building Research Establishment's 'Site Layout Planning for Daylight and Sunlight' (2nd edition) or BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'. It is acknowledged in these Guidelines that, where a proposal does not fully meet the requirements of the daylight provisions, this must be clearly identified and a rationale for alternative, compensatory design solutions must be set out. The Board can apply discretion in these instances, having regard to local factors including site constraints, and in order to secure wider planning objectives, such as urban regeneration and an effective urban design and streetscape solution.
- 7.5.25. As noted, there are some shortfalls in daylight provision within the scheme. While the report assesses the development against a 1.5% ADF for kitchen/living/dining rooms, I note that the relevant standard is 2%. I am satisfied that all of the rooms would receive adequate daylight and having regard to the need to develop sites such as these at an appropriate density, full compliance with BRE targets is rarely achieved, nor is it mandatory for an applicant to achieve full compliance with same. I am satisfied that adequate justification for non-compliance exists, and that the design and associated design solutions and alternative target is appropriate.
- 7.5.26. In terms of compensatory design solutions, I note the favourable high percentage (over 50%) of dual aspect units, the orientation of the units and provision of high quality and quantum of private amenity space which exceed relevant standards. The provision of the public realm and additional pedestrian linkages through the site is also of benefit to the amenity of the proposed residential units. The proposal also contributes to wider planning aims such as the refurbishment and appropriate reuse

of the existing Protected Structure on site and the delivery of housing and regeneration of an underutilised brownfield site.

7.5.27. Section 3.3 of the BRE guidelines state that good site layout planning for daylight and sunlight should not limit itself to providing good natural lighting inside buildings. Sunlight in the spaces between buildings has an important impact on the overall appearance and ambience of a development. It is recommended that at least half of the amenity areas should receive at least 2 hours of sunlight on 21st March. Section 6.4 of the applicants Daylight and Sunlight analysis demonstrates that of the assessment relates to amenity spaces within the proposed development. The assessment outlines that 80% of the proposed communal open space, 92% of Public Open Space Area 1 and 90% of Public Open Space Area 2 would receive at least 2 hours sunlight thereby exceeding BRE recommendations. I refer to the point raised within the grounds of appeal which outlines that Open Space Area 3 to the south of the Coach House has not been assessed. However, having regard to the siting of the open space relative to the proposed buildings and its orientation, I am satisfied that it would be within the required standards.

7.5.28. Having regard to above, on balance, I consider the overall the level of residential amenity is acceptable, having regard to internal daylight and sunlight provision and having regard to the overall levels of compliance with BRE targets. As such, in relation to daylight and sunlight provision for the proposed units, the proposal complies with the criteria as set out under Section 3.2 of the Building Height Guidelines and would provide a satisfactory level of amenity for future occupiers.

#### Adjacent Residents

7.5.29. In designing a new development, it is important to safeguard the daylight to nearby buildings. The site is adjoined by existing single storey and 2 storey dwellings to the northwest, west and southwest at St. Mary's Villas. The impact of the proposal on adjacent properties at St. Mary's Villas is addressed within Section 5 (Shadow Analysis), Section 6 (Sunlight to Amenity Spaces), and Section 8 (Daylight Analysis of Existing Buildings) of the report.

7.5.30. Concerns are raised within the grounds of appeal in relation to the impact of the development on overshadowing and sunlight/daylight levels of adjacent properties. Particular concern is raised in relation of the impact of the proposal on the adjoining

property to the west Beechwood House and the lack of detailed information presented within the study in relation to the actual impact of the proposal on this property.

7.5.31. In considering the grounds of appeal which raise concern in relation to the overshadowing impact of the proposal on the Walnut, Cromwell's Lane I note that "The Walnut" Cromwell's Lane is located on the south side of Cromwell's Lane and does not directly adjoin the site. Having regard to the location of the property relative to the appeal site I do not envisage that overshadowing, sunlight/daylight impacts arise.

- Shadow Analysis

7.5.32. Section 5 of the Daylight, Sunlight and Overshadowing Study provides a Shadow Analysis of the proposed development. Shadows cast by the development on March 21<sup>st</sup>, June 21<sup>st</sup> and December 21<sup>st</sup> are presented in both plan view and 3D view. The assessment outlines the following results for residential properties:

- St Mary's Villas South: Additional minor shading is identified at Beechwood House at 8am in March and June.
- St. Mary's Villas West: Minimal additional shading is presented on garden of these properties at 8am in March on some properties in December.
- St Mary's Villas North: Additional shading is identified for the closest property to the north during early morning in March (8am) and in December (10am). It is stated that the additional overshadowing occurs for a minimal amount of time.

7.5.33. While the study identifies some overshadowing on adjoining properties, I do not consider such impact to be significant or excessive. Overshadowing impacts on adjacent residential properties and associated open spaces are confined to certain hours of the day and are appropriate for an urban setting.

- Sunlight to Existing Amenity Spaces

7.5.34. Section 6 of the Daylight, Sunlight and Overshadowing Study relates to Sunlight to Amenity Spaces. The report cross refers to the guidance set out within section 3.3.17 of the BRE's Site Layout Planning for Daylight and Sunlight which outlines that for a space to appear adequately sunlit throughout the year, at least half of the

garden or amenity area should receive at least 2 hours of sunlight on the 21st of March.

7.5.35. The study illustrates that in the majority of instances the existing amenity spaces adjacent to the proposed development would continue to receive at least 2 hours of sunlight over 50% of their area, exceeding BRE recommendations. The assessment illustrates that the amenity space to the rear of Beechwood House does not meet the required standards under both the existing and proposed scenario.

7.5.36. I note that the rear garden of Beechwood House is limited. The images presented illustrate very little difference to the amount of sunlight received between both the existing and proposed scenarios. Based on the information submitted, the siting of the proposed apartment block relative to existing properties and the proposed separation distances, I do not consider the proposal to have an undue negative impact on the amenity space.

- Daylight Analysis of Existing Buildings

7.5.37. Section 8 of the report provides a daylight analysis of the impact of the proposal on existing properties in the immediate vicinity of the site

- VSC View 1 - Beechwood House and St. Mary's Villas South.
- VSC View 2- Bayview House (within the appeal site).
- VSC View 3- St. Mary's Villas West.
- VSC View 4- St. Mary's Villas North.

7.5.38. This assessment concludes that all windows assessed will achieve vertical sky component of greater than 27% or 0.8 times their former value in accordance with BRE recommendations.

Conclusion

7.5.39. In conclusion, having regard to the separation distances from the proposed apartment block to the existing adjacent dwellings to the northwest and west along St. Mary's Terrace, the modulated approach to height of the proposed apartment block (4 to 5 storeys) and the orientation of the proposed apartment building relative to adjoining properties I do not envisage that they will result in significant overshadowing/loss of sunlight/ loss of daylight to existing adjoining property.

7.5.40. Overall, I am satisfied that daylight, sunlight and overshadowing impact from the proposed development upon existing properties will be within an acceptable range for an urban environment and not significantly harmful.

*Devaluation of Property & Contrary to Zoning Objective*

7.5.41. I refer to the grounds of appeal which outlines that the proposal is contrary to the RE zoning objective as set out within the Drogheda Borough Council Development Plan 2011-2017 which seeks *“to protect and/or improve the amenities of developed residential communities”*. It is stated that the scale of the proposal neither protects or improves the residential amenity of the surrounding residential community.

7.5.42. As earlier detailed, I note that the operative development plan for the Drogheda area is the Louth County Development Plan 2021-2027 which came into force on the 11th of November 2021. The site is zoned Objective A1 for existing residential purposes within the existing LCDP with an objective *“To protect and enhance the amenity and character of existing residential communities”*. The A1 zoning objective as set out within the existing Development Plan primarily reflects that set out within the Drogheda Borough Council Development Plan 2011-2017.

7.5.43. Having regard to the assessment carried out above, I consider that the proposal has been appropriately designed to negate against impact on adjoining residential properties. I am satisfied that the proposed development would not seriously injure the amenities of the area to such an extent that would adversely affect the value of property in the vicinity. I do not consider that the proposal will result in undue overlooking or overshadowing of adjoining properties or consider that the proposal represents a scale or format of development which would unduly impact on the residential amenity of existing dwellings.

7.5.44. The A1 “Existing Residential” zoning objective pertaining to the site reflects the presence of Bayview House on the site. In my view the proposal comprises the successful reuse, refurbishment and enhancement of the Protected Structure. The proposal comprises the development of a centrally located brownfield/infill site at an appropriate density in accordance with national and local policy objectives which support compact growth. I therefore consider the proposed development to be in accordance with the zoning objective pertaining to the site.



- 7.5.45. I note the concerns raised in the grounds of appeal in respect of the devaluation of neighbouring property. However, having regard to the assessment and conclusion set out above,
- 7.5.46. In conclusion, I consider that the proposed development maintains adequate separation distances from the existing residential properties. It would not give rise to undue overlooking or overshadowing of adjoining properties or otherwise cause serious injury to the residential amenities.

#### **7.6. Impact on Proposed Residential Amenity**

- 7.6.1. Regarding the proposed apartments blocks in the majority of instances compliance has been demonstrated with key aspects of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2020) in relation to the mix of units, the size and internal layout of each unit, orientation and the level of private amenity space provided. A Compliance report with the Design Standards for New Apartments 2018 prepared by Van Dijk Architects is submitted in conjunction with the application.
- 7.6.2. There appear to be some minor discrepancies between the schedule of areas provided and the floor plans in terms of compliance with the relevant storage standards. In this regard I note that the schedule of areas outlines that Units 3,5, and 7 comply with the 9 sq.m. internal storage space requirements. However, the plans illustrate a total of 6.8 sq.m. of storage space. This point is addressed within the applicants F.I. response which outlines that each apartment has over half of the storage requirements and additional storage is provided within the landing.
- 7.6.3. There are some minor deviations from the required standards in terms of compliance with the minimum floor area for the twin bedrooms in Units 2,4,6 and 8 within the proposed apartment block. I consider that the provision minimum floor areas in accordance with the relevant standards could be addressed via revised layouts in the instance that the Board is minded to grant permission for the development.
- 7.6.4. In terms of unit mix, the proposal includes 21 no. one bedroom apartments (36%), 34 no. two bedroom apartments (59%) and 3 no. 3 bedroom apartments (5%). The proposal is in accordance with SPPR 1 in this regard. I consider that an appropriate mix of units is provided and furthermore consider the introduction of an apartment format development will add to the overall mix of residential units within the area. 6

no. 2 bed 3 person apartments are provided within the scheme. I refer to the guidance set out within paragraph 3.7 of the Apartment Guidelines which outlines that no more than 10% of the total number of units within any private residential development may comprise 2 bed 3 person and the proposal would be marginally above this (10.3%). However, on an overall basis I consider the mix of units to be acceptable and note that no objection to the principle of the unit mix has been raised by the planning authority.

- 7.6.5. Over 50% of the apartments are dual aspect and therefore exceed the requirements as listed under SPPR 4. All ground floor apartments exceed the minimum floor to ceiling heights of 2.7m required under SPPR5. All other floors have a minimum floor to ceiling height of 2.6m. The maximum number of apartments per lift core is 5 and the development is compliant with SPPR 6 in this regard.
- 7.6.6. The proposed units are served by private amenity space, provided in the format of balconies and terraces. The proposed private amenity space is contiguous to the main living space and the quantum of amenity space provided is in accordance with and in the majority of instances exceeds the relevant standards.
- 7.6.7. The site layout has been designed to ensure that there is a clear demarcation between public, private and semi-private space. The development includes over 1,100 sq.m. of public open space and a children's play area is provided to the north of the site as illustrated in the Proposed Site Layout Plan. The development includes 410 sq.m. of communal open space provided to the west of the apartment block and a communal garden room within the coach house. The quantum of open space provided is well in excess of the relevant standards as set out within the Louth County Development Plan and the Apartment Guidelines. I consider the location of communal and public open space within the scheme is well sited to serve future residents and responds to site constraints.

#### Separation Distances

- 7.6.8. Within the site, the proposed apartment block is located to the northwest of the existing protected structure on site, Bayview House. A separation distance of between 9.75m and 12m is provided between the proposed apartment block and the existing dwelling. While the proposed apartment block is located within 10m of

Bayview House, there are no window openings of habitable rooms provided along the western elevation of Bayview House.

#### Sunlight and Daylight

- 7.6.9. As detailed in Section 7.5 above, having regard to the low scale of the surrounding existing residential development, the separation distances between the proposed apartment block and existing buildings on site and the proposed design I consider that appropriate daylight and sunlight standards will be achieved for future occupants of the development.

#### Conclusion

- 7.6.10. In conclusion, I consider that the proposal would provide a high quality of residential amenity for the future occupants of the scheme.

### **7.7. Access and Transportation**

- 7.7.1. The appeal site is well located within an urban context being within walking distance of Drogheda town centre and benefitting from connections to public transport. Access to the site is currently provided via Cromwell's Lane. The existing road network in the vicinity of the site includes Dublin Road to the northeast and Cromwell's Lane to the south.
- 7.7.2. The Dublin Road (R132) operates at a speed limit of 50kmph in the vicinity of the site. Footpaths are provided along this section of the road which link the site to Drogheda Train Station and Drogheda Town Centre. Cromwell's Lane is a two way single carriageway road subject to a speed limit of 50kph.
- 7.7.3. A number of traffic and transportation related concerns are raised within the grounds of appeal. Concerns are raised in relation to the limited capacity of the existing road network in the vicinity of the site to accommodate traffic movements associated with the proposal, insufficient car parking and insufficient sightlines at the proposed site entrance. Reference is made to the planning history of the site wherein planning permission was refused for development on the site on grounds of traffic hazard. I consider the concerns raised in turn as follows.

#### Traffic Impact

- 7.7.4. A Traffic Impact Assessment prepared by Waterman Moylan was submitted in response to Louth County Council's request for further information. Section 2.2 of

the applicant's TIA sets out the results of a baseline traffic survey on the adjoining road network. The AM peak is identified between 8am and 9am and the PM peak is identified between 5pm to 6pm. Limited traffic movements on the adjoining road network are identified during the AM and PM peaks. Concerns relating to the timing of the surveys are raised within the grounds of appeal i.e. during a school mid-term and Covid travel restrictions. However, I note that the applicant's FI response outlines that the surveys were undertaken on the 4<sup>th</sup> of May 2021 when schools were open.

7.7.5. Section 4 of the Traffic Impact Assessment prepared by Waterman Moylan addresses the traffic impact of the proposal. This outlines that traffic movements associated with the development include 3 arrivals and 10 departures during the AM peak hour and 9 arrivals and 3 departures during the PM peak. The assumptions used within the TIA are based on the existing modal split for the Electoral Division in which the site is located identified within the 2016 Census. The following figures are identified in this regard: 58% private car, 17% public transport, 1% cycle and 24% pedestrian.

7.7.6. The TIA outlines that traffic generated by the proposed development will be very low and will have a negligible impact on the local road network. Having regard to the limited scale of the development, the proposed parking provision and the location of the site in close proximity to public transport connections and Drogheda town centre I do not consider that the development constitutes a scale or format of development which would generate substantial traffic movements.

#### Improvements to Cromwell's Lane

7.7.7. The existing road network within the vicinity of the site is restricted. The application documentation details that the width of Cromwell's Lane varies with a general provision of 6m reducing to 4.3m approaching Dublin Road. The Lane is restricted in width, includes a curved alignment in the vicinity of the site and is currently not served by footpaths or public lighting.

7.7.8. Improvement works to Cromwell's Lane are detailed as part of the application. The proposed works to Cromwell's Lane include the introduction of a one way system along Cornwell's Lane at its eastern end, road markings and provision of an alternative safe route for traffic and pedestrians as illustrated on Drawing no. P040

prepared by Waterman Moylan Consulting Engineers. The works to Cromwell's Lane are located outside of the application boundary. Concerns relating to the proposed improvement works and the delivery of same are raised within the grounds of appeal. Safety issues are raised in relation to the interface of the development with the R132 and the accessibility of the site for mobility impaired users are also raised.

7.7.9. The application documentation outlines that the proposed works will significantly improve road safety and accessibility along Cromwell's Lane. It is stated that the proposals have been agreed with Louth County Council and have been subject to an independent Road Safety Audit.

7.7.10. I consider that the principle of improvement works to Cromwell's Lane are acceptable. I recommend that the detail of the proposed works should be subject to written agreement with Louth County Council prior to the commencement of development.

#### Proposed Access

7.7.11. Access to the site is proposed via Cromwell's Lane to the south of the site. The proposal includes a main access to the apartment block and Coach House to the west of Bayview House and an independent access is proposed to Bayview House. The application documentation outlines that the location of the proposed main access reflects that permitted under PA Ref. 14/510041.

7.7.12. Concerns relating to the sightlines achievable at the proposed site entrance are raised within the grounds of appeal. The TTA outlines that the main access onto Cromwell's Lane operates within the 50kmph speed limit but due to the road layout, width and alignment observed speeds at this location are 25kmph. Drawing no. 20-070-P020 prepared by Waterman Moylan details sightlines at the proposed site entrance. The drawing illustrates that a 2m x 45m sightline can be achieved in accordance with DMURS and the sightlines to the left of the main entrance can achieve 20m due to the existing house and wall.

7.7.13. The TTA sets out a justification for the proposed sightline on the basis that Cromwell's Lane is proposed to be a one way from the proposed entrance up to the R132 Dublin Road. The 20m sightline is considered to be suitable in this regard as there will be no traffic approaching the site from the left hand side. As noted within

the appeals on the decision, the proposed one way system does not commence until further east of Cromwell's Lane past the separate entrance to Bayview House. I consider sightlines to be acceptable on the basis of limited traffic movements which would be associated with the entrance to Bayview House and the proposed 2 no. apartments. Fire tender access to the site is illustrated within Drawing no. P030 prepared by Waterman Moylan submitted in conjunction with the application.

7.7.14. Pedestrian access is proposed via Cromwell's Lane and the reopening of an existing unused pedestrian access onto the R132 to the northeast of the site. The appeals on the application raise safety concern in relation to the detail of the proposed reopened entrance and its interface with the Dublin Road at a point where the footpath width is limited. Safety measures proposed by the applicant include the provision is a barrier at the edge of the footpath. While I acknowledge the point raised by the applicant in relation to the interface of the proposed pedestrian entrance with the existing footpath at a point where footpath widths are restricted, I note that this is a secondary entrance to the development and Louth County Council have raised no objection to the proposed entrance. I consider the provision of enhanced permeability to the site to be welcomed and details of the interface between the appeal site and the adjoining road network should be subject to agreement with the planning authority.

7.7.15. Within the site I noted that the restricted width of the internal access path renders it unsuitable for mobility impaired users. This point is raised within the grounds of appeal and acknowledged within the report on file from the Infrastructure Division dated the 22/06/2021 which outlines that the proposed shared pedestrian/cycle path is not in compliance with the Design Manual for Urban Roads and Streets and the National Cycle Manual. There are restrictions on the gradient and width of the proposed path due to the Root Protection Zone of protected trees. As detailed within the application documentation alternative access is available for mobility impaired users. I consider that this is acceptable having regard to existing site constraints.

#### Insufficient Car Parking

7.7.16. The proposed development includes a total of 30 no. car parking spaces to serve the 58 no. apartments. Parking ratio is provided at a rate of 0.51. The grounds of appeal

raise concerns in relation to insufficient car parking provision and potential for overspill on the adjoining road network.

- 7.7.17. A justification for the proposed parking provision is provided within the applicant's Traffic Impact Assessment on the basis of the proximity of the site to Drogheda Town Centre and rail and bus services. The site is located opposite Drogheda Rail Station and along the Dublin Road which is served by a frequent Bus Eireann service which includes 3 routes along the R132 in the vicinity of the site.
- 7.7.18. In considering the grounds of appeal, I note that the site would be classified as a central location in accordance with the guidance set out within the Sustainable Urban Housing: Design Standards for New Apartments Guidelines (2020). In such locations the guidelines advocate for car parking to be "*minimised, substantially reduced or wholly eliminated*". Section 13.3.18 of the Development Plan sets out guidance in relation to instances where a reduction in car parking provision can be considered as detailed in Section 5 of this report. The site is centrally located within Drogheda and is well served by public transport connections (including train and bus services).
- 7.7.19. The proposal also includes the provision of 120 no. cycle parking spaces within the development which will promote sustainable transport modes. On the basis of the central location of the site and its public transport connections, I consider that the proposed parking provision is sufficient to meet the requirements of the scheme.

## **7.8. Landscape and Ecology**

- 7.8.1. The appeal site is located is subject to a Tree Preservation Order, the extent of which is illustrated on the attached presentation document. The existing trees on site are also designated as being of special amenity value. Policy Objectives NGB 29 and NGB 30 of the Development Plan are of relevance in light of these designations as they seek to protect trees subject to a Tree Preservation Order and of Special Amenity Value.
- 7.8.2. Drawing no. 6914-L-202A prepared by Park Hood Landscape Architects provides an overlay of the extent of the TPO area on the site. Existing trees on site are identified as either Category B (trees of moderate quality), Category C (trees of low quality) or Category U (trees of poor condition).

- 7.8.3. I note the contents of the report on file from the Heritage Officer in LCC which outlines that it is important *“to ensure that no trees which are subject to a TPO are felled”*. The grounds of appeal raise the point that the proposal which includes the removal of trees within a TPO area is contrary to Heritage Officer’s recommendations in this regard.
- 7.8.4. The Development Impact Plan (Drawing No. 6914-L-200A) prepared by Parkhood Landscape Architects illustrates that 4 no. trees are proposed for removal to accommodate the proposed development. These include 3 no. sycamore trees within the TPO area (T004, T005 and T009) and an existing tree along the site’s western boundary adjacent to Bayview Cottage. The trees within the TPO are identified as Category C trees within the impact assessment which are defined as *“trees of low quality with an estimated life expectancy of at least 10 years, or young trees with a diameter stem diameter below 50mm”*.
- 7.8.5. There is reference to a Tree Survey Report (prepared by Andy Boe 2020) within the application documentation which was used to inform the Development Impact Plan. Cross reference to the Tree Survey Report is made within a number of the application documents. While I note that this report does not appear to have been submitted in support of the application, a summary of the findings of the report is provided within the applicants Planning Statement. The Planning Statement outlines those 47 no. trees were identified within the TPO area comprising 6% category B, 84% Category C and 10% ungraded. The amenity value of existing trees on site is identified as being low to medium and species identified include Beech, Ash, Elm and Sycamore.
- 7.8.6. I furthermore note that an Arboricultural Implication Assessment and Arboricultural Method Statement prepared by The Tree File was submitted in support of the previous application pertaining to the site PA Ref 14/510041, ABP Ref PL15.244345. Trees T004 and T005 are identified as Category C trees within the report and T009 is classified as a Category B tree. Permission was granted for the removal of these trees accommodate the development permitted. The principle of the removal of these trees has therefore been previously accepted.
- 7.8.7. The applicant has provided a justification for the proposed removal of 4 no. trees on site on the basis of the Category C status of the trees which are not considered to be



of high quality, the fact that the most notable trees on site are retained (T001 and T004) and the landscaping proposal which include planting of over 40 trees. The proposed level of planting excess the requirements of Policy Objective NBG 31 of the Louth County Development Plan 2021-2027 outlines that in Drogheda and Dundalk, replacement trees will be required at a ratio of 5:1 where the removal of trees is required in order to facilitate development.

- 7.8.8. I note the requirements of Policy Objective NBG 29 of the Louth County Development Plan which seeks: *“To protect trees subject to Tree Preservation Orders and seek to designate additional Tree Preservations Orders (TPO), where appropriate”*. I refer to the planner’s report which informs the decision of the planning authority to grant permission for the development which raises no objection to the loss of existing trees on site to facilitate the proposal on the basis of the retention for significant trees and the landscaping proposals. I also refer the planning history of the site wherein the principle of the removal of the trees was accepted by both Louth County Council and An Bord Pleanala.
- 7.8.9. The Landscaping Plan prepared by Parkhood includes planting of over 40 semi-mature trees which will enhance the overall amenity of the site. I note that significant trees on site including those at the entrance to the site in front of Bayview House are being retained. The number of trees being retained within the TPO area far exceeds that previously permitted. The Landscape Management and Maintenance Plan prepared by Parkhood submitted in support of the application sets out specifications for the proposed landscaping scheme and details measures for Tree Protection both during construction and post construction. Having regard to the high quality landscape and planting proposals I have no objection to the loss of 3 no. trees within the TPO area to facilitate the redevelopment of the site.
- 7.8.10. In conclusion, I consider that the proposed loss of trees is acceptable having regard to the quality of the proposed landscaping scheme which includes replacement planting at a ratio which significantly exceeds development plan requirements and the need to develop an underutilised, infill, brownfield site to its maximum potential in accordance with strategic land use policy for urban areas.

## Ecology

- 7.8.11. A Bat Assessment prepared by Bat Eco Services was submitted in response to Louth County Council's request for further information. Concerns relating to the scope and content of the bat survey are raised within the grounds of appeal. Specific reference is made to the surprisingly low number of bats detected on site within the submitted report and the fact that the coach building was not surveyed.
- 7.8.12. A response to the concerns raised is set out within the response to the grounds of appeal prepared by Dr. Niamh Roache (Appendix D of the appeal response). This outlines that the low use of the site by bats may be attributable high levels of artificial night light from the Dublin Road and the railway and that the methodology used for surveying the coach house is in accordance with relevant best practice guidelines.
- 7.8.13. The concerns of the third parties are noted, however, having regard to the contents Bat Assessment and the applicants appeal response it is my view that sufficient information has been submitted to fully assess the impact of the development. I do not consider that the proposed development would not have a significant negative impact on the biodiversity of the site. I refer to the requirements of Condition no. 8 and 14 of Louth County Council's notification of decision to grant permission for the development which outlines that mitigation measures set out within the Bat Assessment shall be adhered to and the lighting proposals for the development. I consider that the requirements of these conditions are sufficient to protect the existing species on site.

## **7.9. Condition no. 23**

- 7.9.1. The first party appeal requests the removal of Condition no. 23 of Louth County Council's notification of decision to grant permission for the proposed development. Condition no. 23 outlines the following:

*a) Prior to the commencement of development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each housing unit,) pursuant to Section 47 of the Planning and Development Act 2000, that restricts all residential units permitted to first occupation by individual purchasers i.e. those not being a corporate entity, and/or those*

*eligible for the occupation of social and/or affordable housing, including cost rental housing.....*

*Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.*

7.9.2. The requirements of Condition no. 23 are derived from the Section 28 Guidelines on Regulation of Commercial Institutional Investment in Housing and Circular NRUP 03/2021 and place restrictions on the first occupation of the units. The grounds of appeal outline that that the development which comprises of 58 no. apartment units is not a format of development to which the Guidelines apply.

7.9.3. In this regard, I refer to the following definition of “structure to be used as a dwelling” as set out within Section 4 of the Guidelines:

*“Accordingly, a structure to be used as a dwelling to which these guidelines applies is; -*

- a) A house, defined as not including a building designed for use or used as two or more dwellings or a flat, an apartment or other dwelling within such a building, and,*
- b) A duplex unit, defined as a dwelling within a building designed for use as two individual dwellings and/or on one shared plot, with separate entrances.”*

7.9.4. The proposed development comprises 58 no. apartment units. The Guidelines do not apply to any development that solely comprise apartments, in that they do not fall within the definition of ‘structure to be used as a dwelling’. Having regard to nature and format of the development and the definition set out within Section 4 of the Guidelines as detailed above, I consider that the proposal does not represent a format of development to which the requirements of the Guidelines on the Regulation of Commercial Institutional Investment in Housing apply.

7.9.5. I note that an appellant’s response to the first party appeal outlines that the planning authority’s initial assessment was correct in implementing Condition no. 23. I furthermore refer to Louth County Council’s response to the first party appeal which outlines that the requirements of Condition no. 23 are not warranted. In the instance that the Board is minded to grant permission for the proposed development I

recommend the omission of Condition no. 23 on grounds that it is not relevant or applicable to the format of development proposed.

#### 7.10. Other

##### Archaeology

7.10.1. An Archaeological Impact Assessment prepared by Archer Heritage Planning is submitted in conjunction with the application. This identifies that the site lies 500m from the Zone of Archaeological Potential for Drogheda town and is located outside of the medieval town defences. Section 6 of the report outlines that there remains some potential (moderate) that buried archaeological remains survive at the site. The assessment recommends that the site be subject to pre-development test trenching under licence from DCHG.

7.10.2. I note the contents of the submission on file from the Department of Culture, Heritage, and the Gaeltacht which raises no objection to the proposal subject to condition relating to archaeological pre-development trenching. I consider such a condition to be appropriate in the instance that the Board is minded to grant permission for the development.

#### 7.11. Appropriate Assessment

The development site is not located within or directly adjacent to a designated European site. The closest Natura 2000 site to the development is the River Boyne and River Blackwater SAC (002299) which is located c. 430m to the north.

An Appropriate Assessment (Screening) prepared by Roger Goodwillie and Associates is submitted in support of the application. Section 3 of the report sets out qualifying interests for same. I note that Clogherhead SAC is also within 15km of the site. The following 6 no. European sites are located within a 15km radius of the site and separation distances are listed below.

<b><i>European Site</i></b>	<b><i>Site Code</i></b>	<b><i>Distance</i></b>
Boyne Coast and Estuary SAC	001957	2.6km
River Boyne and River Blackwater SAC	002299	400m
Clogher Head SAC	001459	11km

Boyne Estuary SPA	004080	1km
River Boyne and River Black Water SPA	004232	2.6km
River Nanny Estuary and Shore SPA	004158	8.3km

The site does not support any of the habitats or species for which the Natura sites are designated so that there will be no direct effect on them. The designated area of sites within the inner section of Boyne Estuary, namely the Boyne Coast and Estuary SAC and the River Boyne and River Blackwater SAC, are proximate to the outfall location of the Drogheda WWTP and could therefore reasonably be considered to be within the downstream receiving environment of the proposed development and on this basis these sites are subject to a more detailed Screening Assessment.

I am satisfied that the potential for impacts on all other Natura 2000 Sites can be excluded at the preliminary stage due to the separation distances between the European sites and the proposed development site, the nature and scale of the proposed development, the absence of relevant qualifying interests in the vicinity of the works and the absence of ecological and hydrological pathways.

#### *Screening Assessment*

The Conservation Objectives and Qualifying Interests of sites in inner Boyne Estuary are as follows:

<b><i>Boyne Coast and Estuary SAC (001957)</i></b>
<b><i>Conservation Objective</i></b> - To maintain the favourable conservation condition of Estuaries in Boyne Coast and Estuary SAC
<b><i>Qualifying Interests/Species of Conservation Interest:</i></b> Estuaries; Mudflats and sandflats not covered by seawater at low tide; Salicornia and other annuals colonizing mud and sand; Atlantic salt meadows (Glauco-Puccinellietalia maritima); Mediterranean salt meadows (Juncetalia maritimi); Embryonic shifting dunes; Shifting dunes along the shoreline with Ammophila arenaria ('white dunes'); *Fixed coastal dunes with herbaceous vegetation ('grey dunes')

<b><i>River Boyne and River Blackwater SAC (002299)</i></b>
<b><i>Conservation Objective</i></b> – 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.
<b><i>Qualifying Interests/Species of Conservation Interest:</i></b> Alkaline fens; Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (Alno-Padion, <i>Alnus incanae</i> , <i>Salix albae</i> ); <i>Lampetra fluviatilis</i> (River Lamprey); <i>Salmo salar</i> (Salmon); <i>Lutra lutra</i> (Otter)

#### 7.11.1. Identification of likely effects

Section 3.5 of the applicants AA Screening Report outlines that site run off is the main potential impact on the river because of its proximity and the presence of roadside drainage.

A construction method statement will be prepared by the contractor prior to the commencement of site works dealing with measures to be taken during demolition, site clearance and construction. This will prevent the escape of significant amount of solids and/or chemicals to the roads around the site.

Section 3.5 of the AA outlines that provided adequate capacity exists in the wastewater treatment plant there will be no significant effects on the SAC's or SPA's during operation.

The applicants Screening statement concludes the following:

*“Straightforward preventative measures can ensure that this project has no significant effect on the local, or any, Natura 2000 sites, either during the construction phase or during operation. This being the case, there is no possibility of “in combination” effects and no necessity to carry out a Stage 2 assessment (Natura Impact Statement).*

A Preliminary Construction and Waste Management Plan prepared by Waterman Moylan Consulting Engineers has been submitted in conjunction with the application. During the construction phase, standard pollution control measures would be put in

place. These measures are standard practices for urban sites and would be required for a development on any urban site, irrespective of any potential hydrological connection to Natura 2000 sites. In the event that the pollution control and surface water treatment measures were not implemented or failed I am satisfied that the potential for likely significant effects on the qualifying interests of Natura 2000 sites in Boyne Estuary from surface water run off can be excluded given the distant and interrupted hydrological connection, the nature and scale of the development and the distance and volume of water separating the application site from Natura 2000 sites in the Boyne Estuary (dilution factor).

The foul discharge from the proposed development would connect to the public sewer along Dublin Road to the Drogheda WWTP for treatment and ultimately discharge to Boyne Estuary. Therefore, there is potential for an interrupted and distant hydrological connection between the subject site and the designated sites in the Boyne Estuary due to the wastewater pathway.

The subject site is identified for development through the land use policies of the Louth County Development Plan 2021 - 2027. This statutory plan was adopted in 2021 and was subject to AA by the planning authority, which concluded that its implementation would not result in significant adverse effects to the integrity of any Natura 2000 areas. I also note the development is located on serviced lands in an urban area. In terms of surface water, the application documentation details that the site can accommodate infiltration of surface water to the ground. I refer to the requirements of Condition no. 38 of Louth County Council's notification of decision to grant permission for the development which outlines that surface water from the site shall be disposed of within the site boundaries and shall not discharge to the combined water network. The Flood Risk Assessment submitted in support of the application outlines that the lands are located within Flood Zone C and at low risk of flooding from all sources.

The Drogheda WWTP has a design capacity of 101,600 population equivalent (P.E.) In 2019, the Annual Environmental Report submitted to the EPA reported a collected load (peak week) of 75,062 P.E. The 2019 AER also stated that capacity is not likely to be exceeded within the next three years. This indicates that there is sufficient capacity within the existing WWTP to treat the additional loading from the proposed development.

It is evident from the information before the Board that the proposed development, individually or in combination with other plans or projects, would not be likely to have a significant effect on the Boyne Coast and Estuary SAC and the River Boyne and River Blackwater SAC and that Stage II AA is not required.

#### 7.11.2. *Screening Determination*

It is reasonable to conclude that on the basis of the nature and scale of the proposed development on serviced lands, the nature of the receiving environment which comprises a built-up urban area, the distances to the nearest European sites and the hydrological pathway considerations, the information submitted as part of the applicant's EclA that, by itself or in combination with other development, plans and projects in the vicinity, the proposed development would not be likely to have a significant effect on the Boyne Coast and Estuary SAC and the River Boyne and River Blackwater SAC or any European Site in view of the conservation objectives of such sites, and that a Stage 2 Appropriate Assessment is not, therefore, required.

## 8.0 **Recommendation**

8.1. I recommend that permission be granted subject to conditions.

## 9.0 **Reasons and Considerations**

Having regard to the residential zoning objective for the site, national and local policy objectives which support the redevelopment of brownfield/infill sites, the pattern of development in the area and 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 be acceptable and would not seriously injure the residential or visual amenities of the area, would not adversely impact on the character and setting of Bayview House, a Protected Structure, and would be acceptable in terms of the safety and convenience of pedestrians and road users. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.



## 10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application on the 14<sup>th</sup> of December 2020 and as amended by further plans and particulars received on the 31<sup>st</sup> of May 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 in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>Prior to the commencement of development details of the materials, colours and textures of all the external finishes to the proposed buildings, surface materials and public realm finishes shall be submitted for written agreement of the planning authority.</p> <p>Reason: In the interest of visual amenity.</p>
3.	<p>Prior to the commencement of any development on site, the developer shall submit revised plans, illustrating the following revisions to the proposed development for the written agreement of the planning authority:</p> <ul style="list-style-type: none"> <li>- Provision of screening on balconies of apartment unit nos. 4,6 and 8.</li> <li>- Provision of internal storage and minimum floor areas within the apartment block in accordance with the standards set out within the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2020). Details of secure provision for bulky storage areas allocated to individual apartments.</li> <li>- Details of proposed boundary treatment to the private open space areas of Bayview House which ensure privacy while not blocking views of the Protected Structure.</li> </ul>

	<p>In default of agreement, the matter(s) in dispute shall be referred to An Bord Pleanála for determination.</p> <p>Reason: In the interest of residential and visual amenity.</p>
4.	<p>(a) Prior to the commencement of development, the developer shall submit a Conservation Method Statement for written agreement of the planning authority undertaken by a Grade 1 or Grade 2 Conservation Architect which includes a complete survey and heritage appraisal of Bayview House and clearly illustrate the level of intervention proposed to the structure.</p> <p>(b) All replacement windows shall be as detailed within the drawings and submissions prepared by Michael Slattery Architects and submitted to the planning authority on the 31<sup>st</sup> of May 2021.</p> <p>(c) A conservation expert shall be employed to manage, monitor and implement the works on the site and to ensure adequate protection of the retained and historic fabric during the works. In this regard, all permitted works shall be designed to cause minimum interference to the retained building and facades structure and/or fabric.</p> <p>(d) All repair works to the protected structure shall be carried out in accordance with best conservation practice as detailed in the application and the Architectural Heritage Protection Guidelines for Planning Authorities issued by the Department of Arts, Heritage and the Gaeltacht in 2011. The repair works shall retain the maximum amount of surviving historic fabric in situ, including structural elements, plasterwork (plain and decorative) and joinery and shall be designed to cause minimum interference to the building structure and/or fabric. Items that have to be removed for repair shall be recorded prior to removal, catalogued and numbered to allow for authentic re-instatement.</p> <p>(e) All existing original features, in the vicinity of the works shall be protected during the course of the refurbishment works.</p> <p>(f) Prior to commencement of development the applicant shall submit details of the proposed repairs and modifications to the protected structure on site for the written agreement of the Planning Authority.</p>

	Reason: To ensure that the integrity of this protected structure is maintained and that the proposed repair works are carried out in accordance with best conservation practice with no unauthorised or unnecessary damage or loss of historic building fabric.
5.	<p>The site shall be landscaped (and earthworks carried out) in accordance with the detailed comprehensive scheme of landscaping, which accompanied the application submitted, unless otherwise agreed in writing with, the planning authority prior to commencement of development.</p> <p>Tree Protection Measures as detailed in the Landscape Management and Maintenance Plan received on the 14<sup>th</sup> of December 2020 and the Development Impact Plan (Drawing no. 6914-L-200) received on the 31<sup>st</sup> of May 2021 shall be adhered to.</p> <p>Prior to first occupation of any apartments the public realm hard and soft landscaping shall be completed to the satisfaction of the planning authority.</p> <p>Reason: To ensure a satisfactory completion and maintenance of the development in the interests of residential amenity.</p>
6.	<p>The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of public open spaces and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development.</p> <p>Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.</p>
7.	<p>(a) Mitigation measures detailed in the Bat Survey received on the 31<sup>st</sup> of May 2021 shall be adhered to.</p> <p>(b) Prior to the commencement of development, the applicant shall appoint a bat ecologist to carry out a bat survey, during the hibernation period, to determine if a derogation licence for bats would be required under provisions of the Wildlife Act 1976. The survey shall include an</p>

	<p>examination of all buildings, trees and vegetation proposed for removal for evidence of bats.</p> <p>Reason: To ensure the protection of natural heritage on site.</p>
8.	<p>A minimum of 10% of all communal car parking spaces should be provided with functioning EV charging stations/points, and ducting shall be provided for all remaining car parking spaces, including in-curtilage spaces, facilitating the installation of EV charging points/stations at a later date. Where proposals relating to the installation of EV ducting and charging stations/points has not been submitted with the application, in accordance with the above noted requirements, such proposals shall be submitted and agreed in writing with the Planning Authority prior to the occupation of the development.</p> <p>Reason: To provide for and/or future proof the development such as would facilitate the use of Electric Vehicles</p>
9.	<p>Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development/installation of lighting. The scheme shall adhere to the Bat Conservation Trust Guidelines 2018. Such lighting shall be provided prior to the making available for occupation of any house.</p> <p>Reason: In the interests of amenity and public safety and to conserve bat species.</p>
10.	<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>Reason: To protect the residential amenities of property in the vicinity and the visual amenities of the area.</p>
11.	<p>Prior to the commencement of development, the developer shall liaise with the Infrastructure Department in Louth County Council to ascertain their</p>

	<p>requirements relating to improvement works to Cromwell's Lane to facilitate the development.</p> <p>Reason: In the interest of orderly development and to ensure traffic safety.</p>
12.	<p>Prior to the commencement of development, the developer shall submit revised proposals for the internal road network for written agreement of the planning authority. The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs shall comply in all respects with the standards set out in the Design Manual for Urban Roads and Streets (DMURS). Any additional space shall be landscaped and used as public open space serving the development.</p> <p>Reason: In the interests of visual amenity and of pedestrian and traffic safety.</p>
13.	<p>All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.</p> <p>Reason: In the interests of visual and residential amenity.</p>
14.	<p>Drainage arrangements, including the disposal and attenuation of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health.</p>
15.	<p>The applicant shall enter into water and wastewater connection agreements with Irish Water, prior to commencement of development.</p> <p>Reason: In the interest of public health.</p>
16.	<p>Proposals for a naming scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all street signs, and apartment numbers, shall be provided in accordance with the agreed scheme.</p>

	Reason: In the interest of urban legibility.
17.	<p>The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall -</p> <p>(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,</p> <p>(b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and</p> <p>(c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.</p> <p>(d) the Planning Authority and Department of Culture, Heritage and the Gaeltacht shall be furnished with a report describing the results of the monitoring.</p> <p>In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.</p> <p>Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.</p>
18.	<p>The construction and demolition of the development shall be managed in accordance with a Construction and Demolition 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 hours of work, noise and dust management measures, a Traffic Management Plan, details of disposal of construction/demolition waste.</p> <p>Reason: In the interests of public safety and residential amenity.</p>
19.	Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be

	<p>submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006.</p> <p>Reason: In the interest of sustainable waste management.</p>
20.	<p>Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.</p> <p>Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.</p>
21.	<p>Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.</p>

	Reason: To ensure the satisfactory completion of the development.
22.	<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>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>

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Stephanie Farrington  
Senior Planning Inspector  
4<sup>th</sup> of February 2022