



An  
Bord  
Pleanála

# Inspector's Report

## ABP-311136-21

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<b>Development</b>	Demolition of dwelling and construction of a 3-5 storey over basement apartment development comprising 38 apartments
<b>Location</b>	174 Howth Road, Clontarf, Dublin 3 (D03 X8C6)
<b>Planning Authority</b>	Dublin City Council
<b>Planning Authority Reg. Ref.</b>	3501/20
<b>Applicant(s)</b>	Inglewood Development Limited
<b>Type of Application</b>	Planning Permission
<b>Planning Authority Decision</b>	Grant with Conditions
<b>Type of Appeal</b>	Third-Party Appeal First-Party Appeal
<b>Appellant(s)</b>	Bill & Elizabeth O'Meara Inglewood Development Limited
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	29 <sup>th</sup> October 2021 & 11 <sup>th</sup> November 2021
<b>Inspector</b>	Susan Clarke

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## 1.0 Site Location and Description

- 1.1. The triangular shaped site is located at 174 Howth Road, Clontarf, Dublin 3 and has a stated area of 0.245 ha. It is located on the eastern side of Collins Avenue East, just north of the junction with Howth Road and Killester neighbourhood centre, to the northeast of Dublin City Centre. The site is bounded to the north by the DART rail line and Killester DART station is approx. 400m east of the site. The site is also well served by bus routes.
- 1.2. The site comprises a three storey detached Edwardian house, with a street frontage of approx. 40m and a site depth of approx. 35-90m. The dwelling is set back approx. 20m from the street edge and aligned with the neighbouring dwelling, positioned at a slight angle to the road/neighbouring property. The site is well screened from the street with mature planting along all boundaries, including a high boundary wall along the southern and western boundaries.
- 1.3. This eastern section of Collins Avenue East, between the DART line and the junction with Howth Road, comprises seven dwellings, including the detached appeal dwelling and three sets of semi-detached dwellings. The neighbouring properties have elongated back gardens (60-100m long) and the subject site, being the last dwelling before the rail line, comprises a large rear and side garden, with the rear garden being shorter at 30-40m long. On the western side of the street, opposite the appeal site is Killester College of Further Education, which is a two storey flat roofed building, 40m wide, set back approx. 15m from the street.

## 2.0 Proposed Development

- 2.1. The proposed development consists of:
  - Demolition of a detached dwelling (354 sq m),
  - Construction of a part three storey and part five storey apartment block over basement containing a total of 38 No. units (one studio, 11 No. 1-bed units, and 26 No. 2-bed units (3 No. 2-bed (3 person) and 23 No. 2-bed (4 person)), including one duplex unit) with private and communal open space,
  - Provision of 42 No. car parking spaces (35 No. at basement level and 7 No. at surface level) and 45 No. bicycle parking spaces,

- A new vehicular entrance in the south-eastern corner of the site onto Howth Road located west of the existing entrance,
- Construction of an access road and footpath adjacent to the site's eastern boundary,
- Upgrade works to the public footpath abutting the site's southern boundary,
- Landscaping and boundary treatments, and
- Associated site works.

The units are to be accommodated in a single C-shaped apartment block that ranges in height from 9.45 to 15.5 metres above ground level. The five storey element of the building is located on the western section of the site. The proposed building is to incorporate a primarily brick form finish with limestone cladding on the external elevation interspersed with a combination of overhanging and recessed balconies. The studio unit measures 39 sq m, while the one-bedroomed units range in size from 47 to 57 square metres and the two-bedroomed units range in size from 70 to 107 square metres. With the exception of four apartments, all apartments are dual/triple aspect.

Whilst minor amendments were proposed to the original scheme including landscaping treatments, a revised architectural treatment for the northern elevation, an ESB substation at the entrance to the site, provision of SUDs measures including green roofs to sections B and C of the apartment block and the ESB substation, and a reduction in the number of proposed car parking spaces, overall the scheme remained largely unchanged as a result of a Request for Further Information (RFI) and Clarification of Further Information (CFI).

The First-Party Response to the Third Party Appeal proposes to amend the angled windows on the second floor of the easternmost block of the building to prevent overlooking. The amended angled windows will protrude from the façade of the building and the windows will be angled to face due south in the same plane as all other windows, doors and balconies along this façade.

## **2.2. Documentation Submitted with Planning Application**

The application included a number of supporting documents (in association with architectural, landscaping and engineering drawings) as follows:

- Planning Report (September 2020)
- Planning Design Report (September 2020)
- Services Report (August 2020)
- Operational Waste Management Plan (20<sup>th</sup> August 2020)
- Outline Construction Management Plan (20<sup>th</sup> August 2020)
- Photomontages (Rev. 0) (not dated)
- Skylight, Sunlight & Shadow Assessment (V1) (not dated)
- Arboricultural Impact Assessment Report (not dated)
- Proposed Entrance Design Methodology Report (August 2020)
- Landscape Design Proposal (September 2020)
- Landscape Specification for Residential Development (September 2020)
- Letter of Consent from Dublin City Council dated 25<sup>th</sup> March 2020 in respect to the section of the site located on the public footpath and road.

Following the RFI, the Applicant submitted additional documentation:

- Sunlight, Daylight & Shadow Assessment (Development Performance) (V3a) (not dated)
- Photomontages (V2) (not dated)
- Preliminary Building Lifecycle Report (April 2021)
- Site Specific Flood Risk Assessment (5<sup>th</sup> March 2021)
- Surface Water Discharge Points Feasibility (5<sup>th</sup> March 2021).

Following the CFI, the Applicant submitted further documentation:

- Response to Clarification of Further Information – SuDS Proposals (June 2021)

In addition, further Shadow Analysis was submitted with the First-Party Response to the Third-Party Appeal (dated September 2021).

### 3.0 Planning Authority Decision

#### 3.1. Decision

Dublin City Council issued a Notification of Decision to Grant Permission on 20<sup>th</sup> July 2021 subject to 24 No. conditions. Conditions include *inter alia*:

- Financial contribution in lieu of public open space (No. 4)
  - Minor architectural and landscaping amendments to protect residential amenity (No. 5):
    - a) All above-ground level external-wall opes to lift/stair and lobbies of Cores A and B shall be permanently fitted with opaque glazing.
    - b) The eastern facing bedroom opes in apartments A4, and A8, shall be permanently fitted with opaque glazing to at least 1.8m above finished floor level, or fitted with an external louver system that redirects overlooking to the south east.
    - c) All remaining sides to balconies or patios across the scheme shall be fitted with opaque glazing in treatment in lieu of railings.
    - d) A high natural buffer screen shall be provided forward of the western bedroom window to apartment A1.
    - e) The window arrangement to the master bedroom serving apartment A3 shall be arranged as originally submitted with the initial application – with a high level window onto the tunnel passageway area.
    - f) High northern side screens shall be fitted to the balconies serving apartments B5 and B12, as well as apartments A7 and B11.
    - g) The open space portion of the set-aside lands to the north side of site shall be used and laid out as usable communal open space to serve the subject scheme.
- Reason: In the interests of residential amenity.
- Car parking spaces limited to a total of 39 No. (No. 8b)

- Section 47 agreement required to allow for provision of shared access onto the proposed access way onto Collins Avenue East. The shared access shall make provision for facilitating the possible future development of lands to the north east of the proposed development (No. 24)

## **3.2. Planning Authority Reports**

### **3.2.1. Planning Reports (24<sup>th</sup> November 2020, 11<sup>th</sup> May 2021, and 20<sup>th</sup> July 2021)**

The Planning Officer considered that the demolition of the existing dwelling was acceptable and that the proposed density and height were compliant with planning policy. However, the Local Authority had concerns in relation to other aspects of the proposal, and as such issued a Request for Further Information (RFI) (dated 24<sup>th</sup> November 2020) regarding *inter alia*: separation distances to nearby dwellings, privacy of proposed units and associated private open space, daylight and sunlight/shadowing, northern elevation treatment, CGIs of the overall scheme from distant vantage points, a housing accommodation schedule, public open space provision, and the area proposed to be taken in charge by the Local Authority. Subsequent to the RFI, the Local Authority issued a Clarification of Further Information (CFI) (dated 11<sup>th</sup> May 2021) in relation to the scheme's drainage proposals. The Planning Officer recommended that planning permission be granted subject to condition.

### **3.2.2. Other Technical Reports**

**Parks & Landscape Services Division** (18<sup>th</sup> November 2020): The layout is not sympathetic to tree conservation. The complex could be setback from the northern and western boundaries. A financial contribution should be payable in lieu of public space provision proposed.

**Transportation Planning Division** (10<sup>th</sup> May 2021): No objection subject to condition.

**Engineering Department: Drainage Division** (10<sup>th</sup> May 2021, 5<sup>th</sup> July 2021): No objection subject to condition.

**Waste Management** (Not dated): Recommended conditions.

### 3.3. Prescribed Bodies

**Irish Rail:** No objection subject to conditions.

**Irish Water:** No comments received.

**Minister for Arts, Heritage, Regional, Rural and Gaeltacht Affairs:** No comments received.

### 3.4. Third Party Observations

A number of Third-Party Observations from local residents and elected representatives were made in respect of the application. The key points from the Observations can be summarised as follows:

- The proposed development does not respect its neighbours or character of the area.
- The proposed development would replace a sylvan setting with a hulking mass.
- The proposed development significantly breaches the front and rear building line on Howth Road.
- The proposal is not compliant with Development Plan policy, including the site's applicable Z1 land use zoning objective, and is incompatible in terms of design, height, scale, landscaping and density.
- The proposal results in overdevelopment and excessive overlooking of neighbouring properties resulting in a loss of privacy and a devaluation of properties.
- The proposal will add significantly to traffic congestion in the area. The lack of sightlines will endanger pedestrians and cyclists.
- The proposed removal of all the trees will negatively impact wildlife and severely impact the visual amenity in the neighbourhood.
- The demolition of an iconic 1930's dwelling designed by masterbuilder William Maxwell is not warranted.
- The appropriate level of private open space is not being provided.
- No natura impact study has been completed.



- The proposed development's scale will disregard the current streetscape and is not in keeping with the area.
- Previous reasons for refusal to redevelop the site are applicable to the current proposal.
- The development will result in a loss of sunlight and outlook onto a sylvan backdrop for nearby residents and will reduce the area's residential amenity.
- The development is inconsistent with the Guidelines for Planning Authorities on Residential Density.

Correspondence on file from the adjoining neighbour (No. 176 Howth Road) states that the owners' concerns in respect of the development have been addressed, and they are in support of the application.

#### 4.0 Planning History

**DCC Reg. Ref. 2284/18/ABP-301535-18:** Planning permission refused by Dublin City Council and decision upheld by An Bord Pleanála for the demolition of the existing three storey dwelling and construction of nine dwellings and the relocation of the existing entrance.

The Local Authority refused permission for the development for three reasons: 1) the development would breach the building line and be visually incongruous, 2) excessive overlooking of the rear gardens of adjacent dwellings at Nos. 176/178 Howth Road, and 3) insufficient justification for the demolition of the existing dwelling provided.

An Bord Pleanála upheld the Refusal on 25<sup>th</sup> October 2018 for the two reasons:

*Having regard to the location of this serviced site along a high quality public transport corridor and approx. 400m from a DART station, the proposed residential development would not be developed at a sufficiently high density to provide for an acceptable level of efficiency in the use of serviced lands and would accordingly be contrary to National Policy as set out in the section 28 Ministerial Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas. Furthermore the three terraced dwellings given their layout and distances to boundaries would break the established building line and seriously injure the amenities of the area and properties in the vicinity.*

*The proposed development therefore would not be in accordance with the proper planning and sustainable development of the area.*

*It is considered that the proposed development, which would result in the intensification of use of an existing substandard access, and creation of a new entrance with limited sightlines, in close proximity to the existing entrance, would endanger public safety by reason of traffic hazard.*

## **5.0 Policy Context**

### **5.1. Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, including the associated Urban Design Manual (2009)**

These Guidelines promote higher densities in appropriate locations. A number of urban design criteria are set out, for the consideration of planning applications and appeals. Increased densities are to be encouraged on residentially zoned lands, particularly city and town centres, significant 'brownfield' sites within city and town centres, close to public transport corridors, infill development at inner suburban locations, institutional lands and outer suburban/greenfield sites. Higher densities must be accompanied in all cases by high qualitative standards of design and layout. With specific reference to sites within 500m walking distance of public transport nodes (e.g. stations, halts, bus stops), the Guidelines recommend that minimum net densities of 50 units per hectare should be applied, subject to appropriate design and amenity standards.

### **5.2. Sustainable Urban Housing Design Standards for New Apartments Guidelines for Planning Authorities, (DoHPLG, 2020)**

These statutory guidelines update and revise the 2015 Sustainable Urban Housing: Design Standards for New Apartments Guidelines, and the 2018 Guidelines in relation to Shared Accommodation schemes. The objective is to build on the content of the 2015 apartment guidance and to update previous guidance in the context of greater evidence and knowledge of current and likely future housing demand in Ireland taking account of the Housing Agency National Statement on Housing Demand and Supply, the Government's action programme on housing and homelessness Rebuilding

Ireland and Project Ireland 2040 and the National Planning Framework, published since the 2015 guidelines<sup>1</sup>.

Section 2.4 of the Guidelines states that ‘Central and/or Accessible Urban Locations’ “are generally suitable for small- to large-scale (will vary subject to location) and higher density development, that may wholly comprise apartments, including: ...Sites within reasonable walking distance (i.e. up to 10 minutes or 800-1,000m) to/from high-capacity urban public transport stops (such as DART or Luas)”.

Appendix 1 of the Guidelines set out the required minimum floor areas and standards for apartments as follows:

**Minimum overall apartment floor areas:**

Studio	37 sq m (n/a)*
One bedroom	45 sq m (38 sq m)*
Two bedrooms (3 person)**	63 sq m (n/a)*
Two bedrooms (4 person)	73 sq m (55 sq m)*
Three bedrooms	90 sq m (70 sq m)*

\* Figures in brackets refer to 1995 guidelines

\*\*Permissible in limited circumstances

**Minimum aggregate floor areas for living/dining/kitchen rooms, and minimum widths for the main living/dining rooms:**

Apartment type ***	Width of living/dining room	Aggregate floor area of living / dining / kitchen area*
Studio	4m**	30 sq m**
One bedroom	3.3 m	23 sq m
Two bedrooms (3 person)	3.6m	28 sq m
Two bedrooms (4 person)	3.6 m	30 sq m
Three bedrooms	3.8 m	34 sq m

<sup>1</sup> The planning documentation, including the public notices, prepared in respect of the proposed development makes no reference to the development being a Build to Rent scheme. As such, this appeal is not assessed in accordance with the guidelines/requirements for such schemes.

\* Note: An enclosed (separate) kitchen should have a minimum floor area of 6.5 sq. metres

\*\*Note: Combined living/dining/bedspace, also includes circulation

\*\*\* Note: Variation of up to 5% can be applied to room areas and widths subject to overall compliance with required minimum overall apartment floor areas.

In terms of private and communal open space for apartments, the Guidelines provide the following standards:

**Minimum floor areas for private amenity space**

Studio	4 sq m
One bedroom	5 sq m
Two bedrooms (3 person)	6 sq m
Two bedrooms (4 person)	7 sq m
Three bedrooms	9 sq m

**Minimum floor areas for communal amenity space**

Studio	4 sq m
One bedrooms	5 sq m
Two bedrooms (3 person)	6 sq m
Two bedrooms (4 person)	7 sq m
Three bedrooms	9 sq m

### 5.3. Urban Development and Building Heights - Guidelines for Planning Authorities

These Guidelines again highlight the need for a development plan to place more focus in terms of planning policy and implementation on reusing previously developed brownfield land building up urban infill sites. It notes that increasing building height is a significant component in making the optimum use of the capacity of sites in urban locations where transport employment, services and retail development can achieve a requisite level of intensity for sustainability. Accordingly, the development plan must include the positive disposition towards appropriate assessment criteria that will enable the proper consideration of development proposals for increased building height linked with the achievement of greater density of development.

It is acknowledged that taller buildings will bring much needed additional housing and economic development to well-located urban areas and that they can also assist in reinforcing and contributing to a sense of place within the city or town centre.

The Guidelines note that statutory development plans have tended to be overtly restrictive in terms of maximum building heights in certain locations and crucially without the proper consideration of the wider planning potential of development sites. Such displacement presents a lost opportunity in key urban areas of high demand for new accommodation whether it is for living, working, leisure or other requirements in the built environment.

Planning policy must therefore become more proactive and more flexible in securing compact urban growth through a combination of facilitating increased densities and building heights while also being mindful of the quality of development and balancing amenity and environmental considerations. Appropriate identification and siting of areas suitable for increased densities and height will need to consider environmental sensitivities of the receiving environment as appropriate throughout the planning hierarchy.

Taking into account the foregoing, the specific planning policy requirement of the above guidelines under SPPR1 is:

*In accordance with government policy to support increased building height and density in locations with good public transport accessibility, particularly town/city cores, Planning Authorities shall explicitly identify through the statutory plans, areas where increased building heights will be actively pursued for both redevelopment, regeneration and infill development to secure the objectives of the National Planning Framework and Regional Spatial and Economic Strategies and shall not provide for blanket numerical limitations on building height.*

Special planning policy requirement SPPR2 states that in driving general increases in building heights, Planning Authorities shall also ensure appropriate mixtures of uses, such as housing, commercial and employment development, are provided for in the statutory plan context. SPPR3 allows provision in certain circumstances for planning authorities to approve developments, even where specific objectives of the relevant development plan or local area plan may indicate other requirements to the Guidelines.

**5.4.** The following are also considered relevant:

- Rebuilding Ireland Action Plan for Housing and Homelessness

- Circular Letter: NRUP 02/2021- Residential Densities in Towns and Villages, as set out in Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009)
- Urban Design Manual, A best practice guide (DEHLG May 2009)
- Development Management Guidelines for Planning Authorities June, 2007
- Transport Infrastructure Ireland's Traffic and Transport Assessment Guidelines May 2014
- Regulation of Commercial Institutional Investment in Housing – Guidelines for Planning Authorities<sup>2</sup>
- Quantitative methods for daylight assessment are detailed in the following documents:
  - BRE209 - Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice' and;
  - BS 8206-2:2008 (British Standard Light for Buildings- Code of practice for daylighting

## 5.5. Development Plan Provision

The site is governed by the policies and provisions contained in the Dublin City Development Plan 2016-2022. The subject site is zoned Z1 'to protect, provide and improve residential amenities'. Residential use is a permissible use under this zoning.

Chapter 5 of the Development Plan relates to Quality Housing.

Policy SC13 seeks to promote sustainable densities, particularly in public transport corridors, which will enhance the urban form and spatial structure of the city, which are appropriate to their context ... having regard to the safeguarding criteria set out in Chapter 16 (development standards)...and for the protection of surrounding residents, households and communities.

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<sup>2</sup> The purpose of these Guidelines is to ensure that new 'own-door' houses and duplex units in housing developments are not bulk-purchased by commercial institutional investors in a manner that causes the displacement of individual purchasers and/or social and affordable housing including cost-rental housing'. There are no own-door units proposed as part of the subject scheme.

Section 16.7 relates to building height in a sustainable city. Dublin City Council acknowledges the intrinsic quality of Dublin as a low-rise city and its policy is that it should predominantly remain so. There was a recognised need to protect conservation areas and the architectural character of existing buildings, streets and spaces of artistic civic or historic importance. The subject site is located with 500m of the Dart and as such building heights of up to 24m are applicable under the Development Plan.

In terms of aspect natural lighting and sunlight penetration the development plan notes that daylight animates the interior and makes it attractive and interesting as well as providing light to work or read by. Good daylight and sunlight contribute to making a building energy efficient, it reduces the need for electronic lighting while winter solar gain and reduce heating requirements.

The indicative plot ratio for Z1 zonings is 0.5 to 2.0 and the indicative site coverage for sites governed by the Z1 zoning objective is 45 to 60%, with a higher allowance in certain circumstances.

Section 16.3.3 of the Development Plan relates to trees and states that the Council will consider the protection of existing trees when granting planning permission for developments and will ensure to maximum retention, preservation and management of important trees, groups of trees and hedgerows.

## **5.6. Natural Heritage Designations**

The nearest Natura sites are the South Dublin Bay and River Tolka SPA (004024), approx. 1.3km south and separated from the site. North Dublin Bay SAC (000206), and the North Bull Island SPA (004006) are approx. 2km to the south west and separated from the site.

## **5.7. EIA Screening**

On the issue of environmental impact assessment screening I note that the relevant classes for consideration are Class 10(b)(i) “construction of more than 500 dwelling units” and Class 10(b)(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”. Having regard to the modest size of the site at 0.245ha and the number of units to be provided at 38 No., which is considerably

below the 500 dwelling threshold, it is considered that, having regard to the nature and scale of the proposed development, the location of the development on a brownfield serviced site together with the characteristics and likely duration of potential impacts, that the proposal is not likely to have significant effects on the environment and that the submission of an environmental impact assessment report is not required. The need for an environmental impact assessment can therefore be excluded by way of preliminary examination.

## **6.0 The Appeal**

### **6.1. Third-Party Appeal**

A Third-Party Appeal was submitted to An Bord Pleanála on 16<sup>th</sup> August 2021 by Bill and Elizabeth O'Meara opposing the Local Authority's decision. The grounds of appeal can be summarised as follows:

- Unnecessary loss of historical house and most of the trees on site.
- Infringement of the proposed development on residential amenity is substantial in terms of overlooking, overshadowing, and overbearing and on the character and pattern of development in the area.
- The widening of the footpath is being done solely to facilitate the development, and no consideration has been given to the existing two lanes of traffic that are created at the contiguous junction to allow vehicles go both left and right. By widening the footpath the natural separation of traffic would be interfered with possibly leading to long single lane tailbacks at the junction.
- The proposed redesign of the stop lines at the pedestrian lights, which is located too close to the proposed development has been done solely for the benefit of the applicants and would introduce a danger to both pedestrians and drivers owing to the limited visibility of the traffic lights, due to the corner created by the edge of the subject site.
- The access and egress from the site remains a traffic hazard and can only be improved by the setting back of any development to align with the existing



building line and the setting back of the front boundary by more than the 0.8m proposed.

- There are two mature trees on the boundary of the subject site, which could pose serious problems for the Appellant and their neighbours if the trees were to become unstable as a result of the development.
- The letter of support from the owners of No. 176 Howth Road cannot be a consideration in the assessment of the proposed development as all planning permissions must be based on common good.
- The development is incongruous by reason of its height (over sixteen metres) and length (over forty metres), allied with the density of 155 units per hectare. In addition, the separation distance between the development and the boundary of 176 Howth Road is insupportable.
- The development will have a significant negative impact on our clients' residential amenities through overlooking, loss of sunlight, and outlook onto a sylvan backdrop, and significantly affect the use and enjoyment of the Appellant's patio and garden to the rear.
- The development will have an overbearing presence close to the Appellant's boundary and will overshadow the boundary.
- Extra traffic from the development on St. Bridget's Road has not been considered.
- The previous reasons for refusal have not been adequately dealt with.
- The proposed density is not appropriate as the site is too small and it is inconsistent with the character and pattern of development in the area.
- The site is one which is in a defined low rise area, and as such is not a type of development that could rely on SPPR3 of the Apartment Guidelines.
- The development breaches many of the applicable development control standards.
- The refurbishment and reuse of the existing building is preferable to any new residential development.

- Proposals made by the applicant are spurious as they do not have the necessary legal interest to redesign the junction in the manner proposed.
- Request that a condition be attached to a positive decision requiring that a Section 47 agreement be entered into to allow for provision of shared access onto the proposed access way onto the Howth Road.

#### **6.1.1. First-Party Response to Third Party Appeal**

The Applicant submitted a First-Party Response to the Third-Party Appeal. The key points raised in the Response can be summarised as follows:

- The entrance to the site is being relocated to the west by c. 4.5m. This in addition to the removal of the existing boundary wall and setback of the site boundary, will improve the entrance greatly by increasing sightlines for vehicles in accordance with DMURS.
- The proposed development seeks to upgrade the footpath, providing a wider and safer footpath for pedestrians. A letter of consent from Dublin City Council has been included in respect of the necessary lands needed to facilitate the upgrade works.
- The existing house is not considered of historic, architectural, cultural, artistic and/or local interest. A detailed Architectural Conservation Report was prepared in respect of the dwelling for the previous application relating to the site.
- The house has not been added to the Record of Protected Structures.
- The proposed development ranges in height from 3 to 5 storeys, with the fifth storey element being located along the western boundary of the site almost 25.5m west of No. 178 Howth Road. This design feature ensures that the development does not appear overbearing or overshadowing on neighbouring properties.
- The easternmost section of the proposed building, the proposed balconies/terraces and doors and windows of each unit have been angled to provide southward views, thus avoiding overlooking.

- The Response proposes to amend the angled windows on the second floor of the easternmost block of the building to further prevent overlooking. The amended angled windows will protrude from the façade of the building and the windows will be angled to face due south in the same plane as all other windows, doors and balconies along this façade.
- The Skylight, Sunlight, & Shadow Assessment found no BRE impact on the sunlight access of the neighbouring properties.
- A further study of the effects of the proposed development on daylight received in the rear gardens of Nos. 176 and 178 Howth Road has been included with the Response. It is noted from the Shadow Analysis that the existing trees located along the boundary between the subject site and No. 176 Howth Road currently cast shadows over the adjoining gardens, therefore the proposed development will have a negligible impact on the current overshadowing currently experienced.
- The proposed density of 155 No. units per hectare is appropriate given the site's size and accessibility to services and well-connected, high-capacity public transport, and is consistent with planning policy.
- Of the 39 No. trees surveyed, 26 No. were deemed low quality and a further 10 No. were recommended for removal due to their poor condition. Only 3 No. trees were classified as Category B.
- The proposed development is compliant with applicable Development Plan policy.

## 6.2. First-Party Appeal

A First-Party Appeal was submitted to An Bord Pleanála on 16<sup>th</sup> August 2021 by the Applicant in relation to Condition No. 5(g) attached to the Notification of Decision to Grant Permission, which states:

*5. The development hereby approved shall incorporate the following amendments: ...*

*g) The open space portion of the set-aside lands to the north side of site shall be used and laid out as usable communal open space to serve the subject scheme.*

*Reason: In the interests of residential amenity.*

The grounds of appeal can be summarised as follows:

- The proposed development includes more than adequate useable communal open space (365 sq m) including a playground for future residents and it is submitted that the land in question will not offer any greater amenity to the residents.
- In accordance with the Apartment Guidelines, it is considered that the communal open space to be provided in the courtyard can be considered in the quantum of open space for the development as it does receive an adequate amount of sunlight throughout the day whilst maintaining the privacy of adjoining units.
- It is considered that the Planning Authority is misguided in its assertion that the courtyard cannot be included as communal open space.
- The condition creates ambiguity about the future of the lands to the east and will hinder future development of these backland sites along, thus failing to achieve the objective of the Planning Authority which is to develop backland sites in the area.
- The shape and location of the subject land have been the result of considered master planning on the Applicant's part and conditioning this parcel as communal open space is counterintuitive and counterproductive to the integrated master planning of the area.
- The provision of residential development on this piece of land and the adjoining land to the rear of No. 176 Howth Road is the key component in opening up the lands further east.
- The prospects of developing the lands to the east have formed part of the dialogue from the first pre-planning consultation with the Local Authority in August 2019.

- The Applicant submitted a masterplan for the subject site and lands to the east in March 2020 to the Planning Authority.
- The consolidation of the backlands is an objective of the Local Authority.
- The land is not a suitable location for communal open space given its location in the north-eastern corner of the site. The land does not have the benefit of overlooking and passive surveillance and could become an area for anti-social behaviour.
- The land is located at a pitch point in the site and will be quite secluded once the apartment building is completed.
- In anticipation of the neighbouring site being developed, it is considered that this land could be landscaped temporarily until such a time when the adjoining site is ready for development.
- The condition could result in the subject land being rezoned in the next iteration of the Development Plan thus rendering the lands east of the site unsuitable for development.

### **6.2.1. Third-Party Response to First-Party Appeal**

Bill and Elizabeth O'Meara submitted a response to the First-Party Appeal to An Bord Pleanála on 15<sup>th</sup> September 2021. The key points raised can be summarised as follows:

- With the addition of the substation and the play area, there is no quantity of open space that could be used for passive use. By including the lands in the overall site, the density of the development has been determined.
- The lands can be landscaped and designed to maximise its amenity value.
- The removal of the Condition will create ambiguity that will be used by many developers as a precedent for greater densities on lands that they want developed.
- All of the lands proposed for communal open space on the site are either incidental or part of a pathway to the apartment block. The subject lands have

the advantage of being private and capable of providing a sufficient quantity of space to allow the amenity value of the space to be enjoyed.

### **6.3. Planning Authority Response**

Dublin City Council has not submitted a response to the First-Party or Third-Party appeals.

### **6.4. Observations**

None.

## **7.0 Assessment**

Having examined the application details and all other documentation on file, including the Observations, Third-Party Appeal, First-Party Appeal, Third-Party Response, and First-Party Response, inspection of the site, and having regard to relevant local/regional/policies and guidance, I consider that the main issues in this appeal are as follows:

- Land Use Zoning
- Density
- Urban Design
- Residential Amenity
- Appropriate Assessment.

Each of these issues is addressed in turn below.

### **7.1. Land Use Zoning**

The site is zoned for residential development (Z1) in the Development Plan. The proposed residential use on the site is compatible with the land use objectives, and as such it is my considered opinion that the proposed apartment development subject to qualitative safeguards in respect of design and amenity is acceptable in principle on the subject site.

## **7.2. Density**

This application seeks to address An Bord Pleanála's previous refusal to develop the site partially on the grounds that the former development did not have a sufficiently high density to provide for an acceptable level of efficiency in the use of serviced lands and as such would not comply with planning policy. The subject application has a density of 155 units per hectare. The Third-Party Appellant states that while national policy may promote higher densities, the proposed density is inappropriate as the site is too small. It is argued that the proposed density is inconsistent with the character and pattern of development in the area.

It is clear from the applicable planning policy and guidelines outlined in Section 5.0 above that there is an increased emphasis on maximising the development potential of sites particularly in relation to housing developments within existing urban areas. In particular, the 2009 Sustainable Residential Development Guidelines recommend that minimum net densities of 50 units per hectare should be applied, subject to appropriate design and amenity standards. Furthermore, the Apartment Guidelines highlight the need to provide higher density development in central or accessible urban locations (Section 2.4) and also identify the need to provide more than 30,000 units within Dublin City and its suburbs. In addition, the Building Height Guidelines (SPPR1) promote higher densities in locations with good public transport accessibility. The site is located within 3.5km of the city centre and within 400m of Killester DART station, and is also well served by bus routes. Notwithstanding this, I note that the subject site is located to the east of a row of six semi-detached dwellings with large front and rear gardens. Any assessment of the proposed development therefore must have regard to qualitative safeguards in respect of protecting their residential amenity. However, it is nonetheless clear and unequivocal that government policy seeks to support increased building height and density in locations with good public transport and within urban areas.

In summary, I consider the principle of higher density development which would depart from the prevailing low residential density in the immediate area of the site to be acceptable. Strategic considerations set out above dictate that the provision of a higher quantum of development is necessary and in my opinion appropriate on the subject site. The site is well served by various modes of public transport and is located in close proximity to Killester village centre. Furthermore, the site is bounded by

existing residential development on one side only. As such, whilst the proposed density of 155 units per hectare significantly exceeds the supported minimum of 55 No. units per hectare in the 2009 Sustainable Residential Development Guidelines, I consider the corner site offers a unique opportunity to provide for a higher scaled development. I note that the proposal has a stated plot ratio of 1.42 and stated site coverage of 39%, which are below the indicative densities set out in the Development Plan. It is acknowledged however that this must be balanced against impacts on surrounding residential amenity. A reasonable balance must be struck between strategic objectives and the need to protect qualitative safeguards on residential environment in the surrounding area. The qualitative impacts arising from the proposal are assessed in more detail below.

### **7.3. Urban Design**

#### **7.3.1. Demolition of Existing Dwelling**

The Third-Party Appellant considers that the reuse and refurbishment of the existing house is preferable to any new residential development in its place. Dublin City Council's previous reason for refusal in respect of Reg. Ref. 2484/18 relating to insufficient justification for the dwellings demolition and the Conservation Officer's comments, are referenced in the Third-Party Appeal. The Inspector's Report (Ref. 301535) relating to the previous refusal stated the following in respect of the demolition of the dwelling:

*"I note the proposed dwelling is not a protected structure and it is not located within an ACA or part of the NIAH. According to third parties it was constructed by the master builder who constructed the neighbouring dwellings on this road and the subject dwelling was constructed slightly larger than the others as it was intended as a home for the builder. I note that the dwelling has been modified over the years. Given the building itself is not protected, I do not consider that sufficient evidence in terms of its architectural, historical or social significance has been presented such as would warrant its retention."*

I do consider that the dwelling's context has altered significantly since the Inspector's assessment of the previous proposal, to redevelop the site, to justify the retention of the dwelling. As stated above, the development will facilitate a residential density of



155 residential units to the hectare on an urban site in close proximity to public transport. Having regard to the fact that the dwelling is not a Protected Structure or forms part of an architectural conservation area, and acknowledging the development's compact nature on urban lands, I consider that there is sufficient justification to demolish the dwelling in this instance.

### **7.3.2. Tree Felling**

The Third-Party Appellant argues that the site's sylvan character will be lost as a result of the proposed development. Furthermore, it is argued that the felling of two mature trees on the boundary of the subject site could pose serious problems for the Appellant and their neighbours if the trees were to become unstable as a result of the development. The Arboricultural Impact Assessment Report and tree survey submitted with the application states that of the 39 No. trees surveyed, 26 No. were deemed low quality and a further 10 No. were recommended for removal due to their poor condition. Only three trees were classified as being Category B – Good Quality. I note that there is no tree preservation order relating to the site. Furthermore, Murphy + Sheanon have prepared a detailed landscaping proposal for the development. Having regard to the proposed landscaping plan and the fact that the subject site is located in an urban area on zoned and serviced lands, I have no objection in principle to the loss of subject trees. Subject to the implementation of the tree protection measures outlined in the Arboricultural Impact Assessment Report, I do not consider the proposed development to represent a significant threat to neighbouring properties.

### **7.3.3. Architectural Design, Height and Scale**

The proposed development comprises a part three storey and part five storey apartment block over basement. The development measures 15.5m in height, and as such is 8.5m below the Development Plan's recommendation for a maximum of 24m for sites within 500m of a Dart station. The building steps upwards as one moves from east to west across the site. The five-storey element of the proposal is located to the west of the site away from the most sensitive receptors namely Nos. 176 to 186 Howth Road. I consider that the five-storey element of the proposal opposite Killester College of Further Education is an appropriate design response for the corner site, as the development will act as a landmark/focal point in the area. The three-storey element

with a parapet height of 9.45m is located along the eastern boundary, next to No. 176 Howth Road. In my opinion the stepped building height approach reduces the potential for being overbearing in terms of size and scale, particularly on Nos. 176 to 186 Howth Road. In terms of separation distances, at its closest point the three-storey element of the development is located 9.516m from the western elevation of No. 176 Howth Road and 2.78m from the neighbouring rear garden. The fifth-storey element is located approximately 25.5m west of No. 176 Howth Road which will greatly assist in reducing the overbearing impact arising from the proposal. Whilst the existing building line will not be maintained, in my opinion, the height and scale of the proposal is appropriate for the corner site.

In terms of overbearing impacts, it is not a reasonable expectation in my view that there would be no material change in the overall height and scale of any redevelopment of the subject site having regard to national guidelines and the site's proximity to the city centre and public transport. A balance must be struck between developing sites at appropriate densities and ensuring that impacts on surrounding amenity is minimised to the greatest extent possible. The proposed development in my view achieves this appropriate balance and I consider it will not have a material overbearing impact on the adjoining properties having regard to the proposed height and separation distances as discussed above.

The proposed building is to incorporate a primarily brick form finish with limestone cladding on the external elevation. I consider the banding to some of the windows on the northern elevation as proposed as part of the RFI Response, to be acceptable as it will add a degree of articulation to this elevation. In summary, in my opinion the proposed development represents an appropriate design response for the site having regard to its location on a corner plot in close proximity to public transport and its proximity to the adjoining semi-detached dwellings on Howth Road. Whilst the character of the site will be altered with the demolition of the existing detached dwelling and felling of the trees, I do not consider that the proposal will adversely impact the area's visual amenity or character of the area.

## **7.4. Residential Amenity**

### **7.4.1. Overlooking**

The Third-Party Appeal raises concerns in relation to overlooking from the proposed development onto their property, No. 178 Howth Road.

As discussed above, in my opinion the separation distances of the proposed development to the site boundaries are appropriate in terms of the proposed height and scale of the apartment block. Furthermore, a number of design features have been adopted to reduce the potential of overlooking from the development on the neighbouring properties and their rear gardens including:

- The proposed balconies/terraces, windows and doors have been angled to restrict direct overlooking of the neighbouring properties. The First-Party Response to the Third-Party Appeal proposes to amend the windows for the apartment located on the Second Floor of the easternmost part of the building (next to No. 176 Howth Road) to protrude from the façade of the building and will be angled to face due south in the same plane as all other windows, doors and balconies on this façade.
- Vertical metal fins and planting are proposed on each of Block C balconies to promote privacy for residents and reduce potential overlooking of the neighbouring properties.
- Condition No. 5 attached to Dublin City Council's Notification of Decision to Grant Permission requires further amendments to the scheme to reduce the potential for overlooking including:
  - a) All above-ground level external-wall opes to lift/stair and lobbies of Cores A and B shall be permanently fitted with opaque glazing.
  - b) The eastern facing bedroom opes in apartments A4, and A8, shall be permanently fitted with opaque glazing to at least 1.8m above finished floor level, or fitted with an external louver system that redirects overlooking to the south east.
  - c) All remaining sides to balconies or patios across the scheme shall be fitted with opaque glazing in treatment in lieu of railings.

I consider these measures to be appropriate as they collectively militate any potential for overlooking on neighbouring properties, in addition to providing increase privacy for future occupants of the scheme. It is my considered opinion that that the Applicant has endeavoured to minimise the level of overlooking that will occur as a result of the redevelopment of the site to an extent that would not be so significant or severe so as to warrant a refusal of planning permission on these grounds alone.

#### **7.4.2. Overshadowing and Sunlight and Daylight Impacts**

The Third-Party Appellants state that the proposed development will infringe on their residential amenity in terms of overshadowing and the quantum of daylight they receive. The Dublin City Development Plan 2016-2022 in its design quality standards, states that development shall be guided by the principles of Site Layout Planning for Daylight and Sunlight, A guide to good practice (Building Research Establishment Report, 2011). The Building Height Guidelines also seeks compliance with the requirements of the BRE standards and associated British Standard (note that BS 8206-2:2008 is withdrawn and superseded by BS EN 17037:2018), and that where compliance with requirements is not met that this would be clearly articulated and justified. 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.”* Furthermore, the Building Height Guidelines state that where a proposal may not be able to fully meet all the requirements of the daylight provisions above, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, in respect of which the planning authority or An Bord Pleanála should apply their discretion, having regard to local factors including specific site constraints and the balancing of that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and / or an effective urban design and streetscape solution.

In respect to this matter the following documentation was prepared by the Applicant:

1. The original planning application documentation included a Skylight, Sunlight & Shadow Assessment (V1) (not dated) that examines the impact the proposed development will have on neighbouring properties in terms of skylight, sunlight

and shadow. The Report states the analysis was undertaken excluding the existing vegetation currently on the site.

2. As part of the RFI Response a Sunlight, Daylight & Shadow Assessment (Development Performance) (V3a) was submitted that examines the proposal's own performance.
3. An additional Shadow Analysis was submitted with the First-Party Response to a Third-Party Appeal.

#### 7.4.2.1. **Average Daylight Factor for the Proposed Development**

The Applicant's Sunlight, Daylight & Shadow Assessment (Development Performance) (V3a) states that it has been prepared in accordance with the BRE Guidelines and BS206 Lighting for Buildings and Part 2: Code of Practice for Daylighting. The Report concludes "*The application generally complies with the recommendations and guidelines of Site Layout Planning for Daylight and Sunlight – A Guide to Good Practice (BRE 2011) and BS 8206 Lightning for Buildings and Part 2: Code of Practice for Daylight and in relation to sunlight what the guidelines define as "careful" design 80%.*"

In relation to daylight, the BRE 209 guidance, with reference to BS8206 – Part 2, sets out minimum values for ADF that designers/developers should strive to achieve, with various rooms of a proposed residential unit, and these are 2% for kitchens, 1.5% for living rooms and 1% for bedrooms. Section 2.1.14 of the BRE Guidance notes that non-daylight internal kitchens should be avoided wherever possible, especially if the kitchen is used as a dining area too.

In terms of the Ground Floor Level all bedrooms exceed the 1% except one (the master bedroom in Apartment C2 (1-bed unit)<sup>3</sup>). The Report states that this bedroom is narrow due to the adjacent ground floor entrance. The ADF for this room is 0.9%. In terms of living/dining/kitchen spaces on the Ground Floor Level, only three from a total of ten achieve results of 2% or greater, with six achieving results between 1.5% but less than 2%, and one space achieving 1.2%. In respect to the combined living/dining/kitchen unit that receives a result of 1.2% (Apartment A1), the Report

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<sup>3</sup> There appears to be a typographical error on Dwg. No. RFI(03)A, whereby Apartment C2 is referenced as C3 on the floor plan.

states that the living room *“is particularly large. It is unique to this floor and extends over the entrance to the ramp to the car park. The main section of this room is compliant with the BRE ADF requirements, however due to the extended size of the same the overall ADF drops below requirements. To ameliorate this specific task lighting will be provided to the internal kitchen.”*

In terms of the First Floor Level, all tested bedrooms meet the 1% target. In terms of living/dining/kitchen spaces on the First Floor Level, nine (from a total of ten) achieve 2% or greater, and one space achieves results of 1.7% (Apartment B10). However, the analysis does not include the kitchen unit for Apartment A5 on the First Floor Level. The Report states *“the architect has advised the small internal kitchen off living room 4 on the first floor (highlighted orange) is required to be enclosed in order to comply with the relevant fire regulations. There is no dining area included with the enclosed kitchen and it is directly linked to a well daylit living room as evidenced in the ADF results. Accordingly, our analysis excludes this space as per clause 2.1.14.”* Cause 2.1.14 of the BRE Guidelines state: *“Non-daylit internal kitchens should be avoided where possible, especially if the kitchen is used as a dining area too. If the layout means that a small internal gallery-type kitchen is inevitable, it should be directly linked to a well daylit living room.”* The subject living/dining/kitchen room has a ADF of 2.3%. The Report summarises that the average ADF for the tested living rooms is 2.3% and for the tested bedrooms is 2.2%.

The Applicant argues that an ADF of 1.5% for the proposed combined open plan kitchen, living and dining spaces is acceptable. However, having regard to the Atlantic Diamond Limited v An Bord Pleanála [2021] IEHC 322 judgement, whereby it was successfully argued that kitchen/living areas must satisfy a 2% ADF requirement, I consider that the scheme is non-complaint with the BRE Guidelines in respect to the following tested spaces:

Identified Space		Required ADF (%) (as per Atlantic Diamond Limited ruling)	Recorded ADF (%)	Deficiency
<b>Ground Floor Level</b>				
1	Apartment C2: Master bedroom	1	0.9	0.1

2	Apartment A1: Living/Dining/Kitchen Room	2	1.2	0.8
3	Apartment B1: Living/Dining/Kitchen Room	2	1.9	0.1
4	Apartment B2: Living/Dining/Kitchen Room	2	1.6	0.4
5	Apartment C3: Living/Dining/Kitchen Room	2	1.9	0.1
6	Apartment C2: Living/Dining/Kitchen Room	2	1.6	0.4
7	Apartment C1: Living/Dining/Kitchen Room	2	1.7	0.3
8	Apartment B4: Living/Dining/Kitchen Room	2	1.5	0.5
<b>First Floor Level</b>				
9	Apartment B7: Living/Dining/Kitchen Room	2	1.7	0.3

The Report notes that amendments to the original scheme's layout and fenestration were required on foot of the first ADF analysis to improve the results. The key amendments are shown on Dwg. No. RFI(03)A and include *inter alia*:

- Apartment A1: Layout amended to move kitchen area closer to the natural light to improve the average daylight factor<sup>4</sup>;
- Apartment A3: Corner window added to bedroom to increase the average daylight factor to the bedroom;
- Apartment C2: Layout amended to provide a larger window and wider living room area, stores relocated and kitchen area moved closer to the natural light – all to improve the average daylight factor.

Apartment A1 has the lowest Living/Dining/Kitchen ADF (1.2%) despite amendments having been made to this Unit's original layout in an attempt to improve the quantum

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<sup>4</sup> A communal meter room has also been incorporated into the north east section to serve the development.

of daylight it receives. The Applicant has advised that specific task lighting will be provided to the internal kitchen.

I note that the original scheme proposed two windows to the master bedroom in Apartment A3 at Ground Floor Level, while a wrapped-around corner window was proposed at RFI stage to increase the room's ADF. I concur with the Planning Authority that whilst this amendment may result in the room achieving a better ADF rating, it is likely that the future occupants will utilise screening to provide privacy to the bedroom and therefore the additional ADF achieved with the corner window may be irrelevant. As such, should the Board be minded to grant permission for the proposed development, I recommend that a condition similar to Condition No. 5(e) (requiring a high-level window onto the tunnel passageway area) attached to the Notification of Decision to Grant Permission be attached to the Order.

With respect to the one-bed unit Apartment C2, both the Living/Dining/Kitchen space and the master bedroom have ADFs below the Guideline's standards. As stated above, this Unit was amended following the first ADF analysis of the original layout to improve the average daylight factor. Notwithstanding these amendments the Unit does not achieve the Guidelines' ADF requirements. However, I consider the master bedroom's ADF deficiency (0.9%) to be marginal. Furthermore, in my view, the ADF for the subject Apartment's Living/Dining/Kitchen room (1.6%) will not adversely impact the Unit's overall residential amenity to warrant a refusal of permission.

The kitchen associated with Apartment A5 has no window and as such no ADF analysis was undertaken for this space. However, the kitchen, which has no dining area, is connected to a living room that has a ADF of 2.3% and as such, I consider the Unit to be overall acceptable in terms of ADF.

As outlined in the table above, the Living/Dining/Kitchen ADFs for Apartments B1, B2, C3, C2, C1, B4 and B7 range between 1.5% and 1.9%. With the exception of B7, the other units are located at Ground Floor Level. I consider it reasonable to conclude that the percentage compliance rate would increase on the upper floors. Measures to mitigate overlooking, including partially recessed due south facing balconies and terraces, privacy screens, evergreen privacy hedging, vertical metal fins and planting, are proposed for the subject Ground Floor units. In my opinion, these measures are likely to collectively reduce the subject units ADF. I reiterate Section 1.6 of the BRE



Guidelines, which states that the advice given is not mandatory and the advice should not be seen as an instrument of planning policy; “*natural lighting is only one of many factors in site layout design.*” The BRE note that other factors that influence layout include considerations of privacy, security, access, enclosure, microclimate etc. in Section 5 of the standards. As discussed in Section 7.3 above, I consider that the proposed overlooking measures to be appropriate in this instance.

In summary, on balance having regard to the scheme’s proposed density, layout and design of the apartment block, proximity of existing residential properties, the quality and extent of terraces/balconies, provision of proposed privacy measures, and the aspect and view from the proposed units (including no north facing single aspect units), I would generally accept that the development is acceptable in terms of daylight impacts. I am satisfied that the Applicant has endeavoured to maximise the sunlight and daylight to the proposed block. In conclusion, I am satisfied that the proposed development adequately meets residential amenity levels for future residents in respect of daylight as measured by the percentage of rooms meeting ADF standards. Where the guidelines have not been met, I am satisfied that the breaches are not so material as to warrant refusal of permission.

#### 7.4.2.2. **Skylight and Sunlight**

The BRE guidelines set out a two-stage guide for the vertical sky component (VSC).

1. Where the Vertical Sky component at the centre of the existing window exceeds 27% with the new development in place then enough sky light should still be reached by the existing window.
2. Where the vertical sky component with the new development in place is both less than 27% and less than 0.8 times its former value, then the area lit by the window is likely to appear more gloomy, and electric light will be needed more of the time.

In terms of sunlight, the BRE Guidelines advice that to assess loss of sunlight to an existing building, it is suggested that all main living rooms of dwellings, and conservatories, should be checked if they have a window facing within 90<sup>0</sup> of due south. Sunlight of the existing dwelling may be adversely affected if a window:

1. Receives less than 25% of annual probable sunlight hours, or less than 5% of annual probable sunlight hours between 21 September and 21 March, and
2. Receives less than 0.8 times its former sunlight hours during either period, and
3. Has a reduction in sunlight received over the whole year greater than 4% of annual probable sunlight hours.

### **Impact on Neighbouring Properties**

The Applicant's Skylight, Sunlight & Shadow Assessment (V1) (not dated) states that when the proposed development is in place, the VSC at 176 Howth Road for all of the tested windows (for habitable rooms along the northern and western elevation) was greater than 27% and as such is compliant with the BRE Guidelines in this respect.

The Applicant states that only the windows in the Ground Floor rear extension of No. 176 Howth Road are required to be analysis as they serve living spaces. However, since their orientation is such that none of these windows face within 90° of due south they do not require testing and as such are deemed to comply with the requirements. I consider this approach appropriate in this instance.

Furthermore, BRE guideline recommends that: "*Loss of light to existing windows need not be assessed if the distance of each part of the new development from the existing window is three or more times its height above the center of the existing window.*" As such, having regard to the distance between the proposed development and the Third-Party Appellant's property, I do not consider that the proposed development will adversely impact the quantum of daylight received by No. 178 Howth Road.

### **Proposed Development**

For context, I note that 31 No. of the proposed units are dual or triple aspects apartments with single aspect units facing south or west. There are no north facing single aspect units.

The Sunlight, Daylight & Shadow Assessment (Development Performance) (V3a) includes a check on the annual and winter probable sunlight hours in the proposed living rooms. Of the 20 No. windows tested on the Ground and First Floor Levels, 17 No. passed the 25% test with the remaining three achieving results between 22.8 and 24.6. All windows passed the winter 5% target except two, with results of 4.3 and 4.1, respectively. The overall pass rate for the tested windows is 90% APSH and 95% in

the winter months. Where the guidelines have not been met, I am satisfied that the breaches are not so material as to warrant refusal of permission.

#### 7.4.2.3. **Shadowing – Gardens and Open Spaces**

Section 3.3 of BRE 209 considers the impact of development on sunlight to existing amenity spaces such as Gardens, Open Spaces, playing fields and playgrounds. Section 3.3.7 recommends that at least half of the amenity space should receive at least two hours of sunlight on March 21st (the Equinox) and in scenarios where detailed calculations cannot be carried out it is suggested that the centre of the area should receive at least two hours of sunlight on March 21<sup>st</sup>.

#### **Impact on Neighbouring Properties**

The Applicant states in the Skylight, Sunlight & Shadow Assessment (V1) (not dated) that the analysis demonstrates that the tested amenity space (i.e. the rear garden of No. 176 Howth Road) passes the 2-hour test for the 21<sup>st</sup> March.

Furthermore, the First-Party Response to the Third-Party Appeal includes a further study of the effects of the proposed development on daylight received in the rear gardens of Nos. 176 and 178 Howth Road. The study takes account of the existing trees and foliage on the site. The Response states that the proposed development will have a negligible impact on the overshadowing currently experienced. Section 3.3.9 of the BRE Guidelines states that “*The question of whether trees or fences should be included in the calculation depends upon the type of shade they produce. Normally trees and shrubs need not be included to predict and partly because the dappled shade of a tree is more pleasant than the deep shadow of a building (this applies especially to deciduous trees).*” I note from the Arboricultural Impact Assessment Report submitted with the application that the mature trees on site include sycamore, cabbage palm, and eucalyptus. A number of these trees are located along on the eastern boundary of the site. The rear gardens of the neighbouring dwellings located on the Howth Road, east of the site are very large. Excluding the existing trees, the analysis demonstrates that the proposal will result in an increase in overshadowing of the neighbouring gardens, while including the trees in the analysis demonstrates that the proposal will result in a marginal increase in overshadowing. Overall, I consider that there will be a relatively minor difference in overshadowing of the rear gardens of

the neighbouring properties, which would not significantly reduce the residential amenity currently enjoyed by these properties. This is largely due to the orientation of the site in respect to the neighbouring properties. I refer the Board to the shadow casting analysis submitted with the First-Party Response to the Third-Party Appeal.

### **Proposed Development**

The Sunlight, Daylight & Shadow Assessment (Development Performance) (V3a) assesses balconies to the apartments and shared amenity space to the front of the courtyard. All balconies, except two, all passed the 2hrs of sunlight on 21<sup>st</sup> March to at least 50% of the amenity area. The patio area associated with Apartment 3 on the Ground Floor Level is recessed and will be 29% compliant with the 2hrs sunlight standard. The Applicant states that 17% of the area will receive “*just below the 2hr requirement or 46% marginal just off the 50% minimum*”. The balcony associated with Apartment B6 is located in the northwest corner of the block and will only be 23% compliant with the 2hrs sunlight standard. Having regard to the overall compliance of the block, I am satisfied that the development is acceptable. In terms of the shared amenity space along the southern boundary of the site and to the front of the surface car parking spaces, the shadow / sunlight assessment calculates that that 85% of the spaces will receive at least 2 hours of sunlight.

7.4.2.4. In summary, I am satisfied that the proposed development is acceptable in terms of daylight/sunlight and overshadowing impacts and will not reduce the neighbouring residential’s amenity.

### **7.4.3. Apartment Standards**

The Planning Authority have raised no significant concerns in relation to the proposed apartment standards. As stated above, the proposal is located in a ‘Central and/or Accessible Urban Location’ as described in section 2.4 of the Guidelines. The development includes one studio, 11 No. 1-bed units, and 26 No. 2-bed units (3 No. 2-bed (3 person) and 23 No. 2-bed (4 person)), including one duplex unit) and as such is compliant with SPPR 1 of and Section 3.7 the 2020 Apartment Guidelines that requires no more than 10% of the total number of units in any private residential development may comprise this category of two-bedroom three-person apartment. Furthermore, as noted in the schedule of accommodation, the units are generally

compliant with the Guideline's minimum overall floor areas, room sizes, storage areas and private amenity space. As outlined above, the development is compliant with the Guideline's standards for dual aspect.

#### **7.4.4. Communal Open Space**

The First-Party Appeal solely relates to Condition No. 5(g) attached to the Notification of Decision to Grant Permission:

*The development hereby approved shall incorporate the following amendments: ...*

*g) The open space portion of the set-aside lands to the north side of site shall be used and laid out as usable communal open space to serve the subject scheme.*

*Reason: In the interests of residential amenity.*

The Applicant argues that the proposed development includes more than adequate communal open space and that the land in question (106 sq m) will not offer any greater amenity to future residents. Furthermore, it is argued that the Condition will hinder the future development of the backland sites, which was discussed with the Local Authority at pre-application stage. The Applicant states that the development will include 365 sq m of useable communal open space including a children's playground (86 sq m). As per the Apartment Guidelines standards for communal open space, I calculate that 238 sq m is required. The Planning Officer considered that "*there will in reality be actually c.223m<sup>2</sup> of usable communal open space inclusive of the play area and exclusive of the ESB sub-station – as it considered that the eastern area fronting the main entrance to the block would be more akin to landscaping and/or a landscaped circulation area – rather than being usable communal open space.*" As such, it was recommended that the open space portion of lands to the north of the site be retained as communal open space.

I agree with the Local Authority that the majority of open space fronting the main entrance to the block would be more akin to landscaping and/or a landscaped circulation area. In particular, I do not consider the areas to the front of apartments C1, C2, C3 and A1 to be useable communal open space. Furthermore, I do not agree that the use of the northern section of the site prohibits any future development of

backlands along the Dart line. I highlight that the scheme does not include any public open space; in lieu of this, Condition No. 4 attached to the Notification of Decision to Grant Permission requires the payment of a financial contribution. In summary, should the Board be minded to grant permission for the development, I recommend that the lands in the northern corner of the site are conditioned to be used as communal open space and landscaped in accordance with the requirements of the Local Authority's Parks, Biodiversity & Landscape Services Division.

#### **7.4.5. Traffic and Vehicular Access/Egress**

##### Vehicular Entrance

The proposed development includes for the relocation of the existing vehicular entrance in a westerly direction by approximately 4.5m. Furthermore, upgrade works to the public footpath abutting the site's southern boundary are proposed as part of the development. A sliver of land west of the entrance will be ceded to the Local Authority to facilitate the widening of the footpath and to achieve acceptable sightlines. A Proposed Entrance Design Methodology Report was submitted with the application. In addition, a Letter of Consent from Dublin City Council in relation to the works to the public road and footpath is included with the application. The Third-Party Appellant argues that the subject works may lead to long single lane tailbacks at the junction and would introduce a danger to both pedestrians and drivers owing to the limited visibility of the traffic lights due to the corner created by the edge of the subject site. On the contrary, the Applicant argues that the works will increase sightlines for vehicles exiting the site to 49m in both directions and that the scheme is compliant with DMURS. The Local Authority's Transportation Planning Division had no objection to the proposed development subject to conditions. In line with the Local Authority's Transportation Department's comments, I recommend that at the vehicular access point to the development, the public footpath shall be continued at a raised level across the site entrance and exit but shall be ramped and dropped as necessary to facilitate car entry/exit. I note that the previous proposal to redevelop the site was partially refused on the grounds that it would create a traffic hazard. I consider that the proposal would be acceptable having regard to the sightlines achievable with the relocated entrance and that the proposal would not result in a traffic hazard.

### Car Parking

The proposed development included 42 No. car parking spaces; 35 No. at basement level and 7 No. at surface level. The Local Authority's Transportation Planning Division recommended that car parking space B35 be omitted as it is partially located on the access ramp to the basement. In addition, it was recommended that car parking spaces B5 and B23 be replaced with motorcycle parking, as no such parking had been originally been proposed as part of the development. As part of the RFI Response, the Applicant omitted two spaces at surface level, however the Transportation Planning Division first set of recommendations in respect to the basement car parking were not incorporated into the amended scheme. In response to the amended scheme, the Transportation Planning Division recommended that no more than 39 No. car parking spaces be provided and car parking space B35 be replaced for motorcycle parking. I consider the Local Authority's Transportation Planning Division's recommendations to be reasonable having regard to the site's proximity to public transport. In summary, having regard to the number of units and car parking spaces proposed, I do not consider that the development will adversely impact the existing roads in terms of traffic flows or capacity.

### Bicycle Parking

The proposed development includes 45 No. bicycle spaces; 38 No. at basement level and 7 No. visit spaces at surface level. Whilst the proposal is not compliant in terms of the Apartment Guideline's for bicycle parking, I consider the proposed bicycle parking provision to be acceptable.

## **7.5. Appropriate Assessment**

The nearest Natura sites are the South Dublin Bay and River Tolka SPA (004024), approx. 1.3km south and separated from the site. North Dublin Bay SAC (000206), and the North Bull Island SPA (004006) are approx. 2km to the south west and separated from the site.

The conservation objectives for the South Dublin Bay and River Tolka SPA are to maintain or restore the favourable conservation status of habitats and species of community interest, including Light Bellied Brent Goose, Oystercatcher, Ringed

Plover, Grey Plover, Knot, Sanderling, Dunlin, Bar-tailed Godwit, Redshank, Black-headed Gull, Roseate Tern, Common Tern and Arctic Tern and the wetlands which support them.

The conservation objectives for the North Dublin Bay SAC are to maintain or restore the favourable conservation status of habitats and species of community interest, including Mudflats and sandflats not covered by seawater at low tide, Annual vegetation of drift lines, Salicornia and other annuals colonising mud and sand, Atlantic salt meadows, Mediterranean salt meadows, Embryonic shifting dunes, Shifting dunes along the shoreline with *Ammophila arenaria* (white dunes), Fixed coastal dunes with herbaceous vegetation, Humid dune slacks, *Petalophyllum ralfsii*.

The conservation objectives for the North Bull Island Bay SPA are to maintain or restore the favourable conservation status of habitats and species of community interest, including Light-bellied Brent Goose, Shelduck, Teal, Pintail, Shoveler, Oystercatcher, Golden Plover, Grey Plover, Knot, Sanderling, Dunlin, Black-tailed

The proposed development involves the construction of an apartment block on a site of 0.245ha that has previously been subject to development, is already in residential use and that is served by the city's sewerage system. The potential impact of the proposed development on the quality and quantity of the effluent from city's sewers is negligible given its size relative to the urban development that the sewers already serve. So the hydrological links between the appeal site and the bay could not be a pathway by which the proposed development would have the potential to have any effects on the Natura 2000 sites there. Nearly all of the land between the appeal site and the bay have been developed as part of the city. So there is no potential for development on the appeal site to give rise to any disturbance or displacement of habitats or species in the bay that could have an effect of the Natura 2000 sites there.

In conclusion, having regard to the nature and scale of the proposed development, the redevelopment of a brownfield site within an established urban area on serviced land, and the separation distance to the European sites to the subject site, I do not consider that the proposal would be likely to significantly impact the qualifying interests of the South Dublin Bay and River Tolka SPA, North Dublin Bay SAC or North Bull Island SPA (or any other European site) during either the construction or operational phases of development. As such, I consider that no Appropriate Assessment issues arise. In



conclusion, I do not consider that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## 8.0 Recommendation

I recommend that planning permission be granted, subject to the conditions outlined below.

## 9.0 Reasons and Considerations

Having regard to the Z1 zoning objective pertaining to the site in the Dublin City Development Plan 2016-2022 and the policies and provisions contained in the National Planning Framework, the Sustainable Urban Housing Design Standards for New Apartments – Guidelines for Planning Authorities which seek to provide urban development including residential development at more compact and sustainable densities to enable people to live near to where jobs and services are located, it is considered that the proposed development, subject to compliance with the conditions set out below, would not seriously injure the amenities of the area or property in the vicinity in terms of overlooking or overbearing impacts, would not cause adverse daylight/sunlight or overshadowing impacts on neighbouring properties, and would generally be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1	The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the plans and particulars submitted to the Local Authority on 14th April 2021 and 23rd June 2021 and received by An Bord Pleanála on 14th September 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
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	<p>planning authority prior to the 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>The open space area located in the north-eastern corner of the site shall be reserved for use as communal open space. The landscaping details for this area shall be submitted and agreed with the Local Authority prior to the commencement of the development.</p> <p>Reason: In the interest of residential amenity.</p>
3	<p>a) All above-ground level external-wall opes to lift/stair and lobbies of Cores A and B shall be permanently fitted with opaque glazing.</p> <p>b) The eastern facing bedroom opes in apartments A4, and A8, shall be permanently fitted with opaque glazing to at least 1.8m above finished floor level, or fitted with an external louver system that redirects overlooking to the south east.</p> <p>d) A high natural buffer screen shall be provided forward of the western bedroom window to apartment A1.</p> <p>e) The window arrangement to the master bedroom serving apartment A3 shall be arranged as originally submitted with the initial application – with a high level window onto the tunnel passageway area.</p> <p>f) High northern side screens shall be fitted to the balconies serving apartments B5 and B12, as well as apartments A7 and B11.</p> <p>Reason: In the interests of residential amenity.</p>
4	<p>Details of the materials, colours and textures of all the external finishes to the proposed apartment block and ESB sub-station shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Reason: In the interest of visual amenity.</p>

5	<p>Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health.</p>
6	<p>The applicant or developer shall enter into water and/or wastewater connection agreement(s) with Irish Water prior to the commencement of this development.</p> <p>Reason: In the interest of orderly development.</p>
7	<p>The applicant or developer shall comply with the requirements of Iarnród Éireann as per the Body's submission (dated 28th October 2020) to the Local Authority in respect of the proposed development.</p> <p>Reason: In the interest of orderly development.</p>
8	<p>No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.</p> <p>Reason: To protect the residential amenities of property in the vicinity and the visual amenities of the area.</p>
9	<p>a) Prior to commencement of development, the applicant/developer shall liaise with and seek written approval from the Local Authority with regard the relocation of the controller cabinet associated with the adjacent signalised pedestrian crossing required to facilitate the provision of visibility sightlines at the vehicular access to the development. All costs associated with these works shall be borne by the applicant/developer.</p> <p>b) i. A total number of 39 Car parking spaces only are hereby permitted.</p> <p>ii. Car parking Space No. B35 at basement level on Drawing No. P(06), shall be permanently removed as a car parking space and be allocated for motorcycle parking only.</p>

	<p>iii. Car parking spaces shall not be sold, rented or otherwise sub-let or leased to any parties. These shall be retained by and managed by the Management Company for the development.</p> <p>d) At the vehicular access points to the development, the public footpath shall be continued at a raised level across the site entrance and exit, but shall be ramped and dropped as necessary to facilitate car entry/exit. Measures shall be implemented including contrasting materials, signing and road markings to ensure that vehicles entering/leaving the development are aware that pedestrians/cyclists have priority across the site entrance and that vehicles must yield right-of way. Details of the proposed entrance arrangements shall be agreed with the Local Authority to the completion of the development.</p> <p>e) Details of the materials proposed in public areas shall be in accordance with the document Construction Standards for Roads and Street Works in Dublin City Council and agreed in detail with the Road Maintenance Division.</p> <p>f) All costs incurred by Dublin City Council, including any repairs to the public road and services necessary as a result of the development, shall be at the expense of the developer.</p> <p>g) The developer shall be obliged to comply with the requirements set out in the Code of Practice.</p> <p>Reason: In the interests of traffic safety.</p>
10	<p>The development shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall: (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and (b) employ a suitably qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works. The assessment shall address the following issues: (i) the nature and location of archaeological material on the site, and (ii) the</p>

	<p>impact of the proposed development on such archaeological material. A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary archaeological excavation) prior to commencement of construction works. In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.</p> <p>Reason: In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.</p>
11	<p>Construction and demolition waste shall be managed in accordance with a construction waste 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 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. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated. The appointed contractor shall liaise with DCC Road Works Control Division and Iarnród Éireann during the demolition and construction period.</p> <p>Reason: In the interest of sustainable waste management.</p>
12	<p>The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction</p>

	<p>practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.</p> <p>Reason: In the interests of public safety and residential amenity.</p>
13	<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>Reason: In the interest of residential and visual amenity.</p>
14	<p>A schedule of landscape maintenance shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development. This schedule shall cover a period of at least three years, and shall include details of the arrangements for its implementation.</p> <p>Reason: To provide for the satisfactory future maintenance of this development in the interest of visual amenity</p>
15	<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. All existing overground cables shall be relocated underground as part of the site development works.</p> <p>Reason: In the interests of visual and residential amenity.</p>
16	<p>Comprehensive details of the proposed public lighting system to serve the development shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. The agreed lighting system shall be fully implemented and operational, before the proposed development is made available for occupation.</p> <p>Reason: In the interest of public safety and visual amenity.</p>
17	<p>Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 to 1400</p>

	<p>hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
18	<p>The site development and construction works shall be carried out in such a manner so as to ensure that the adjoining streets are kept clear of debris, soil and other material and if the need arises for cleaning works to be carried out on the adjoining public roads, the said cleaning works shall be carried out at the developer's expense.</p> <p>Reason: To ensure that the adjoining roadways are kept in a clean and safe conditions during construction works in the interest of orderly development.</p>
19	<p>The naming and numbering of the scheme shall be agreed in writing with the planning authority prior to the occupation of the units.</p> <p>Reason: In the interest of orderly street numbering.</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>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. The application of any indexation required by this condition 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 for determination.</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>
22	<p>The developer shall pay to the planning authority a financial contribution in lieu of the public open space requirement in respect of public open space 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.</p> <p>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. The application of any indexation required by this condition 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 for determination.</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</p>



	Development Contribution Scheme made under section 48 of the Act be applied to the permission.
23	<p>Prior to commencement of development, the developer shall lodged 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> <p>Reason: To ensure the satisfactory completion of the development.</p>

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Susan Clarke  
Planning Inspector

22<sup>nd</sup> November 2021